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FEDERAL REGISTER

Vol. 77 Friday,

No. 106 June 1, 2012

Pages 32391–32880

OFFICE OF THE FEDERAL REGISTER

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

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WHEN: Tuesday, June 12, 2012
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

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Presidential Documents

Title 3—

The President

Memorandum of May 23, 2012

Building a 21st Century Digital Government

Memorandum for the Heads of Executive Departments and Agencies

The innovative use of technology is fundamentally transforming how the American people do business and live their daily lives. Exponential increases in computing power, the rise of high-speed networks, and the growing mobile revolution have put the Internet at our fingertips, encouraging innovations that are giving rise to new industries and reshaping existing ones.

Innovators in the private sector and the Federal Government have used these technological advances to fundamentally change how they serve their customers. However, it is time for the Federal Government to do more. For far too long, the American people have been forced to navigate a labyrinth of information across different Government programs in order to find the services they need. In addition, at a time when Americans increasingly pay bills and buy tickets on mobile devices, Government services often are not optimized for smartphones or tablets, assuming the services are even available online.

On April 27, 2011, I issued Executive Order 13571 (Streamlining Service Delivery and Improving Customer Service), requiring executive departments and agencies (agencies) to, among other things, identify ways to use innovative technologies to streamline their delivery of services to lower costs, decrease service delivery times, and improve the customer experience. As the next step toward modernizing the way Government works, I charged my Federal Chief Information Officer (CIO) with developing a comprehensive Government-wide strategy to build a 21st century digital Government that delivers better digital services to the American people.

Today, the CIO is releasing that strategy, entitled ''Digital Government: Building a 21st Century Platform to Better Serve the American People'' (Strategy), which provides agencies with a 12-month roadmap that focuses on several priority areas. The Strategy will enable more efficient and coordinated digitalservice delivery by requiring agencies to establish specific, measurable goals for delivering better digital services; encouraging agencies to deliver information in new ways that fully utilize the power and potential of mobile and web-based technologies; ensuring the safe and secure delivery and use of digital services to protect information and privacy; requiring agencies to establish central online resources for outside developers and to adopt new standards for making applicable Government information open and machine-readable by default; aggregating agencies' online resource pages for developers in a centralized catalogue on www.Data.gov; and requiring agencies to use web performance analytics and customer satisfaction measurement tools on all ''.gov'' websites.

Ultimately, this Strategy will ensure that agencies use emerging technologies to serve the public as effectively as possible. As a Government, and as a trusted provider of services, we must never forget who our customers are—the American people.

In order to ensure that agencies make the best use of emerging technologies in serving the public, I hereby direct each agency to take the following actions:

(1) implement the requirements of the Strategy within 12 months of the date of this memorandum and comply with the timeframes for specific actions specified therein; and

(2) within 90 days of the date of this memorandum, create a page on its website, located at www.[agency].gov/digitalstrategy, to publicly report progress in meeting the requirements of the Strategy in a machine-readable format.

This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations, and with appropriate protections for privacy and civil liberties.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, May 23, 2012

[FR Doc. 2012–13470
Filed 5–31–12; 8:45 am]
Billing code 3295–F2–P

Rules and Regulations

Federal Register
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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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–1191; Airspace Docket No. 11–ANM–21]

Amendment of Class E Airspace; Colorado Springs, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action delays the effective date for the amendment of Class E airspace at City of Colorado Springs Municipal Airport, Colorado Springs, CO, until September 20, 2012. The FAA is taking this action to allow additional time for processing and charting.

DATES: The effective date for final rule published February 21, 2012, at 77 FR 9840, is delayed until September 20, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On February 21, 2012, the FAA published in the **Federal Register** a final rule amending Class E airspace at City of Colorado Springs Municipal Airport, Colorado Springs, CO (77 FR 9840). Airspace reconfiguration is necessary due to the decommissioning of the Black Forest Tactical Air Navigation System. This rule was originally scheduled to become effective May 31, 2012; however, a need for additional internal processing requires a delay in the effective date until September 20, 2012.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at City of Colorado Springs Municipal Airport, Colorado Springs, CO.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Delay of Effective Date

The effective date on Airspace Docket No. 11–ANM–21, published in the **Federal Register** on February 21, 2012 (77 FR 9840), is hereby delayed from May 31, 2012, to September 20, 2012.

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

Issued in Seattle, Washington, on May 23, 2012.

John Warner,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2012–13385 Filed 5–30–12; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0457]

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Lapalco Boulevard bascule span drawbridge across the Harvey Canal Route, Gulf Intracoastal Waterway (GIWW), mile 2.8 at New Orleans, Jefferson Parish, Louisiana. The deviation is necessary to allow for the removal and replacement of the span locks of the bridge. This deviation allows the bridge to remain closed for sixty consecutive hours during two consecutive weekends.

DATES: This deviation is effective from 6 p.m. on Friday, June 22, 2012 until 6 a.m. on Monday, July 2, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0457 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0457 in the ''Keyword'' box and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email David Frank, Bridge Branch Office, Coast Guard; telephone 504–671–2128, email *David.M.Frank@uscg.mil.* If you have questions on viewing

the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Jefferson Parish has requested a temporary deviation from the operating schedule for the Lapalco Boulevard Bridge across the Harvey Canal Route, Intracoastal Waterway, mile 2.8 at New Orleans, Jefferson Parish, Louisiana. The bridge has a vertical clearance of 45 feet above mean high water in the closed-to-navigation position and unlimited in the open-to-navigation position; however, during the deviation time periods, the vertical clearance beneath the bridge will be reduced to 35 feet above mean high water.

In accordance with 33 CFR 117.451(a), the bridge currently opens on signal for the passage of vessels; except that, from 6:30 a.m. to 8:30 a.m. and from 3:45 p.m. to 5:45 p.m. Monday through Friday except holidays, the draw need not be opened for the passage of vessels. This deviation allows the bridge to remain closed to navigation from 6 p.m. on Friday, June 22, 2012 until 6 a.m. on Monday, June 25, 2012 and from 6 p.m. on Friday, June 29, 2012 until 6 a.m. on Monday, July 2, 2012. At all other times, the bridge will open on signal for the passage of vessels in accordance with 33 CFR 117.451(a).

The closure is necessary in order to remove and replace the span lock systems. This maintenance is essential for the continued operation of the bridge. Notices will be published in the Eighth Coast Guard District Local Notice to Mariners and will be broadcast via the Coast Guard Broadcast Notice to Mariners System.

Navigation on the waterway consists mainly of tugs with tows with some commercial fishing vessels and recreational craft. Coordination between the Coast Guard and the waterway users determined that there should not be any significant effects on these vessels. An alternate route is available via the GIWW (Algiers Alternate Route). The bridge can open during the maintenance for emergencies. Opening the bridge will take approximately 90 minutes to remove the tarps and equipment as required to open the bridge.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 17, 2012.

David M. Frank,

Bridge Administrator.

[FR Doc. 2012–13357 Filed 5–31–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0444]

Drawbridge Operation Regulation; The Straights, Harkers Island, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Route 70/Harkers Island Bridge across The Straights, at Harkers Island, NC. The deviation is necessary to facilitate maintenance to the bridge motor. This deviation allows the bridge to remain closed-to-navigation while the maintenance is conducted.

DATES: This deviation is effective from 9 a.m. on June 12, 2012 through 3 p.m. on June 13, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket USCG–2012–0444 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0444 in the ''Keyword'' box and then clicking ''Search''. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Jim Rousseau, Bridge Administration Branch, Fifth Coast Guard District; telephone 757–398–6557, email *James.L.Rousseau2@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The North Carolina Department of Transportation (NCDOT) owns and operates the swing span of the Route 70/Harkers Island Bridge across The Straights, in Harkers Island, NC. The bridge has a vertical clearance in the closed position to vessels of 14 feet, above mean high water. The current operating regulations are outlined at 33 CFR 117.5, which require the bridge to open when a request or signal to open is given.

NCDOT has requested a temporary deviation to the existing regulations for the Route 70/Harkers Island Bridge to facilitate necessary repairs. The repairs consist of the maintenance to the bridge motor. Under this deviation, the swing span of the drawbridge will be maintained in the closed-to-navigation position from 9 a.m. on June 12, 2012, through 3 p.m. on June 13, 2012.

Bridge opening data, supplied by Harkers Island Bridge Tender and reviewed by the Coast Guard, revealed that the bridge opened for vessels on average 2 times in a 24 hour period during early June.

The Coast Guard will also inform the users of the waterway, through our Local and Broadcast Notices to Mariners, of the closure period so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

Vessels that can pass under the bridge without a bridge opening may continue to do so at anytime. There are several alternate routes available for vessels with mast heights greater than 14 feet. In the event of an emergency, the drawbridge will not be able to open for vessels.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulation is authorized under 33 CFR 117.35.

Dated: May 22, 2012.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2012–13384 Filed 5–31–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0374]

RIN 1625–AA00

Safety Zones: Catawba Island Club Fire Works, Catawba Island Club, Port Clinton, OH; Racing for Recovery, Lake Erie, Sterling State Park, Monroe, MI; Put-in-Bay Fireworks, Fox's the Dock Pier, South Bass Island, Put-in-Bay, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three temporary safety zones in the waters of Lake Erie in the vicinity of Catawba Island, Port Clinton, OH; on Lake Erie in the vicinity of

Sterling State Park, Monroe, MI; and on Lake Erie in the vicinity of South Bass Island, Put-in-Bay, OH. These zones are intended to restrict vessels from portions of Lake Erie during the Catawba Island Club Memorial Day Fireworks event, the event known as ''Racing for Recovery, Half & Sprint,'' and for the two fireworks events at Put-in-Bay. These temporary safety zones are necessary to protect people and vessels from the hazards associated with these events.

DATES: This rule is effective in the Code of Federal Regulations from June 1, 2012 until 10:30 p.m. on June 23, 2012. The safety zone has been enforced with actual notice since 9:15 p.m. on May 27, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–0374 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0374 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email the Marine Events Coordinator, ENS Benjamin Nessia, Marine Safety Unit, Toledo, 420 Madison Avenue, Suite 700, Toledo, OH 43604; (419) 418–6040, email *Benjamin.B.Nessia@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to these rules because doing so would be impracticable. The details of these emergent events were not received in sufficient time for the Coast Guard to solicit public comments before the start of the fireworks and race. Thus, waiting for a notice and comment period to run would inhibit the Coast Guard from protecting the public and vessels from the hazards associated with the race and with maritime fireworks displays.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making these rules effective less than 30 days after publication in the **Federal Register**. Delaying these rules would be impracticable for the the same reasons discussed in the preceding paragraph.

Background and Purpose

On May 27, 2012, the Catawba Island Club Fireworks event will be held on the waters of Lake Erie. The fireworks will be launched from a point located at position 41°34′18.10″ N, 082°51′18.70″ W (NAD 83). They will be launched approximately between the hours of 9:15 p.m. and 9:45 p.m.

On June 3, 2012, the Racing for Recovery Half & Sprint triathlon will take place on the waters of Lake Erie in the vicinity of Sterling State Park, Monroe, MI. The triathlon will take place from 7 a.m. until 9 a.m.

On June 16, 2012 and again on June 23, 2012, the Put-In-Bay Fireworks event will take place on the waters of Lake Erie. The fireworks will be launched from a point located at position 41°39′19″ N, 082°48′57″ W (NAD 83). They will be launched approximately between the hours of 9:15 p.m. and 10:30 p.m. on each day.

The Captain of the Port Detroit has determined that these fireworks displays and the triathlon will present hazards to participants and spectators. Such hazards include obstructions to the waterway that may cause marine casualties, vessels colliding with swimmers that may cause death or serious bodily harm, and the explosive danger of fireworks and debris falling into the water that may cause death or serious bodily harm.

Discussion of Rule

Because of the aforementioned safety concerns, the Captain of the Port Detroit has determined that temporary safety zones are necessary to ensure the safety of spectators and vessels for each of the aforementioned events. The Catawba Island Fireworks Display safety zone will encompass all U.S. navigable waters of Lake Erie within a 250-yard radius of the fireworks launch site located at position 41°34′18.10″ N, 082°51′18.70″ W (NAD 83). This safety zone will be enforced from 9:15 p.m. until 9:45 p.m. on May 27, 2012.

The Racing for Recovery Half & Sprint safety zone will include all waters of Lake Erie bound by a line beginning onshore at 41°54″14″ N; 083°20′01″ W to 41°54′13″ N; 083°19′48″ W to 41°54′50″ N; 083°19′39″ W to 41°54′51″ N; 083°19′52″ W (NAD 83), and from thence along the shoreline to the beginning. This safety zone will be enforced from 7 a.m. until 9 a.m. on June 3, 2012.

The Put-in-Bay Fireworks events safety zone will encompass all U.S. navigable waters of Lake Erie within a 66-yard radius of the fireworks launch site located at position 41°39′19″ N, 082°48′57″ W (NAD 83). This safety zone will be enforced from 9:15 p.m. until 10:30 p.m. on June 16, 2012 and again on June 23, 2012.

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

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

Regulatory Planning and Review

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 them under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that during the short time these zones will be in effect, they will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel or legal policy issue. The safety zones will be enforced for a relatively short amount of time, and vessels may still pass through the zones with permission of the Captain of the Port Detroit.

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 or operators of vessels intending to transit or anchor in any portion of the following locations: Lake Erie, Catawba Island, Port Clinton, OH between 9:15 p.m. and 9:45 p.m. on May 27, 2012; Lake Erie, Sterling State Park, Monroe, MI, from 7 a.m. until 9 a.m. on June 3, 2012; Lake Erie, South Bass Island, Put-in-Bay, OH from 9:15 p.m. until 10:30 p.m. on June 16, 2012 and June 23, 2012.

The safety zones created by this rule will not have a significant economic impact on a substantial number of small entities for the following reasons: each safety zone will only be enforced for a relatively short time—approximately thirty minutes to two hours. In the event that these temporary safety zones affect shipping, commercial vessels may request permission from the Captain of the Port, Sector Detroit to transit through the safety zone(s). The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulations are in effect. Additionally, the COTP will suspend enforcement of the safety zone if the event for which the zone is established ends earlier than the time expected.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding this rule so that they can 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 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 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

Taking of Private Property

This rule will not cause 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 economically significant rule and does not create an environmental risk to health or risk to safety that may 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 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 they are 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 this rule 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 Department of Homeland Security

Management Directive 023–01 and Commandant Instruction M16475.lD, 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34) of the Instruction because it involves the establishment of safety zones. An 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. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0374 to read as follows:

§ 165.T09–0374 Safety Zones; Catawba Island Club Fireworks, Lake Erie, Catawba Island Club, Port Clinton, OH, Racing for Recovery Half & Sprint, Triathlon, Lake Erie, Sterling State Park, Monroe, MI, Put-in-Bay Fireworks, Lake Erie, Put-in-Bay OH, Put-in-Bay Fireworks, Lake Erie, Put-in-Bay OH.

(a) *Catawba Island Club Fireworks. (1) Location.* The following area is a temporary safety zone: all U.S. navigable waters of Lake Erie within a 250-yard radius of the fireworks launch site located at position 41°34′18.10″ N, 082°51′18.70″ W (NAD 83).

(2) Enforcement period. This safety zone will be enforced between 9:15 p.m. until 9:45 p.m. on May 27, 2012.

(b) *Racing for Recovery Half & Sprint Triathlon. (1) Location.* The following area is a temporary safety zone: all waters of Lake Erie bound by a line beginning onshore at 41°54′14″ N; 083°20′01″ W to 41°54′13″ N; 083°19′48″ W to 41°54′50″ N; 083°19′39″ W to 41°54′51″ N; 083°19′52″ W (NAD 83), and from thence along the shoreline to the beginning.

(2) Enforcement period. This safety zone will be enforced between 7 a.m. until 9 a.m. on June 3, 2012.

(c) *Put-in-Bay Fireworks. (1) Location.* The following area is a temporary safety zone: all U.S. navigable waters of Lake Erie within a 66-yard radius of the fireworks launch site located at position 41°39′19″ N, 082°48′57″ W (NAD 83).

(2) Enforcement period. This safety zone will be enforced between 9:15 p.m. and 10:30 p.m. on June 16, 2012 and again on June 23, 2012.

(d) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within the safety zones established by this rule is prohibited unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated 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. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within these safety zones shall contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so.

Vessel operators given permission to enter or operate in these safety zones must comply with all directions given to them by the Captain of the Port or his on-scene representative.

Dated: May 17, 2012.

J.E. Ogden,

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

[FR Doc. 2012–13245 Filed 5–31–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 9

RIN 2900–AO20

Servicemembers' Group Life Insurance Traumatic Injury Protection Program—Genitourinary Losses

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is issuing this final rule that amends the regulations governing the Servicemembers' Group Life Insurance Traumatic Injury Protection (TSGLI) program by adding certain genitourinary (GU) system losses to the TSGLI Schedule of Losses and defining terms relevant to these new losses. This amendment is necessary to make qualifying GU losses a basis for paying TSGLI benefits to servicemembers with severe GU injuries. The intended effect is to expand the list of losses for which TSGLI payments can be made. This document adopts as a final rule, without change, the interim final rule published in the **Federal Register** on December 2, 2011.

DATES: *Effective Date:* This rule is effective June 1, 2012.

Applicability Date: VA will apply this rule to injuries incurred on or after October 7, 2001.

FOR FURTHER INFORMATION CONTACT: Monica Keitt, Attorney/Advisor, Department of Veterans Affairs Regional Office and Insurance Center (310/290B), 5000 Wissahickon Avenue, P.O. Box 8079, Philadelphia, PA 19101, (215) 842–2000, ext. 2905. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 2, 2011, VA published in the **Federal Register** (76 FR 75458) an interim final rule that expanded the Servicemembers' Group Life Insurance Traumatic Injury Protection (TSGLI) program to add certain genitourinary (GU) system losses to the TSGLI Schedule of Losses for which a TSGLI benefit is payable. The additional GU losses are being added to the TSGLI program in response to the increase in the number of GU injuries experienced by active duty servicemembers who are insured under TSGLI.

We provided a 60-day comment period that ended on January 31, 2012. We received one comment. The commenter stated that the TSGLI program should be available to all servicemembers and veterans who suffer from GU injuries, not just servicemembers and veterans who have suffered GU injuries since October 7, 2001. We will not make any changes based on this comment. As noted in the interim final rule, Congress authorized TSGLI payments for losses resulting from traumatic injuries incurred on or after October 7, 2001. Expansion of coverage to include injuries sustained prior to that date would require legislative action.

Based on the rationale set forth in the interim final rule, we adopt the interim final rule without change as a final rule.

Administrative Procedure Act

This document affirms as final, without change, the interim final rule that is already in effect. In accordance with 5 U.S.C. 553(d)(3), the Secretary of Veterans Affairs has concluded that there is good cause to publish this rule with an immediate effective date.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted annually for inflation) in any given year. This final rule will have no such effect on State, local, or tribal governments or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action'' requiring review by the Office of Management and Budget (OMB) as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action and has determined that it is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This final rule will directly affect only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Number and Title:

The Catalog of Federal Domestic Assistance Program number and title for this regulation is 64.103, Life Insurance for Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on May 24, 2012, for publication.

List of Subjects in 38 CFR Part 9

Life insurance, Military personnel, Veterans.

Dated: May 29, 2012.

Robert C. McFetridge,

Director of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

Accordingly, the interim final rule amending 38 CFR part 9, which was published at 76 FR 75458 on December 2, 2011, is adopted as a final rule without change.

[FR Doc. 2012–13298 Filed 5–31–12; 8:45 am]

BILLING CODE 8230–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0236; FRL–9670–8]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns particulate matter (PM) emissions from cement manufacturing facilities. We are approving a local rule that regulates this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on July 31, 2012 without further notice, unless EPA receives adverse comments by July 2, 2012. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2012–0236, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947–4125, *vineyard.christine@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule we are approving with the dates that it was adopted by the local air agency and submitted by the California.

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	1156	Further Reductions of Particulate Emissions from Cement Manufacturing Facilities.	03/06/09	04/29/09

On July 20, 2009, EPA determined that the submittal for SCAQMD Rule 1156 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

EPA approved an earlier version of Rule 1156 into the SIP on March 10, 2008 (72 FR 12639). SCAQMD adopted a revision to the SIP-approved version on March 6, 2009 and CARB submitted it to us on April 29, 2009.

C. What is the purpose of the submitted rule revision?

PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control PM emissions. Revised Rule 1156 would require total enclosure of clinker storage and handling conducted within 1000 feet from, and inside, a facility's property line. Rule 1156 would allow the use of alternatives, such as a three-sided barrier covered with a roof and wind fence for active barn-type storage, tarp and barrier/wind fence for other active piles, and tarp for inactive piles. EPA's technical support document (TSD) has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). In addition, SIP rules must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), in moderate PM nonattainment areas, and Best Available Control Measures (BACM), including Best Available Control Technology (BACT), in serious PM nonattainment areas (see CAA sections 189(a)(1) and 189(b)(1)). The SCAQMD regulates a PM nonattainment area classified as serious (see 40 CFR part 81), so Rule 1156 must implement BACM/BACT.

Guidance and policy documents that we use to evaluate enforceability and BACM/BACT requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

3. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

4. ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994).

5. ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993.

6. ''Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures,'' EPA 450/2–92–004, September 1992.

7. Standards of Performance for Portland Cement Plants (40 CRF Ch.1 (7–1–09 Edition), Subpart F § 60.60).

B. Does the rule meet the evaluation criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, BACM, and SIP relaxations. The TSD has more information on our evaluation.

C. EPA Recommendations To Further Improve the Rule

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this

Federal Register, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by July 2, 2012, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on July 31, 2012. This will incorporate the rule into the federally enforceable SIP.

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.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action 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 July 31, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirement.

Dated: April 24, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

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 F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(362)(i)(B)(2) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(362) * * *

(i) * * *

(B) * * *

(*2*) Rule 1156, ''Further Reductions of Particulate Emissions from Cement Manufacturing Facilities,'' amended on March 6, 2009.

* * * * *

[FR Doc. 2012–13301 Filed 5–31–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0848; FRL–9351–5]

Fenamidone; Pesticide Tolerance; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA issued a final rule in the **Federal Register** of October 24, 2007, establishing tolerances for residues of fenamidone in or on various commodities. This document is being issued to correct a typographical error.

DATES: This final rule is effective June 1, 2012.

ADDRESSES: The docket for this action, identified by docket identification (ID)

number EPA–HQ–OPP–2006–0848, is available either electronically through *http://www.regulations.gov* or in hard copy at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in EPA West, Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Tony Kish, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308-9443; email address: *kish.tony@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

The Agency included in the final rule a list of those who may be potentially affected by the action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What does this technical amendment do?

EPA issued a final rule in the **Federal Register** of October 24, 2007 (72 FR 60266) (FRL–8152–9), establishing tolerances for residues of the fungicide fenamidone in or on various commodities. In Units II., III., and V., of the preamble, the text correctly listed the tolerance level for the commodity ''strawberry'' at 0.02 parts per million (ppm). The table in § 180.579(d), of the regulatory text, incorrectly listed the tolerance level for ''strawberry'' at 0.15. This technical amendment corrects that error.

III. Why is this action issued as a final rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(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 final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical amendment final without prior proposal and opportunity for comment, because this action merely corrects a typographical error. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

IV. Do any of the statutory and executive order reviews apply to this action?

No. For a detailed discussion concerning the statutory and executive order reviews, refer to Unit VI. of the October 24, 2007 final rule.

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*) 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 this rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 24, 2012.

Losi Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.579 is amended by revising the entry for ''Strawberry'' in paragraph (d) to read as follows:

§ 180.579 Fenamidone; tolerances for residues.

* * * * *

(d) * * *

Commodity	Parts per million
* * * * *	
Strawberry	0.02

[FR Doc. 2012–13354 Filed 5–31–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0802; FRL–9350–4]

2,6-Diisopropylnaphthalene (2,6-DIPN) and Its Metabolites and Degradates; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends the tolerances for residues of 2,6-Diisopropylnaphthalene (2,6-DIPN) and it's metabolites and degradates in or on certain commodities discussed in this document. Loveland Products, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 1, 2012. Objections and requests for hearings must be received on or before July 31, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2009–0802, is available either electronically through *http://www.regulations.gov* or in hard copy at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in EPA West, Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Andrew Bryceland, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–6928; email address: *bryceland.andrew@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or

pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0802 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before July 31, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b). In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2009–0802, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), Mail Code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

II. Summary of Petition for Tolerance

In the **Federal Register** of May 4, 2012 (77 FR 26477) (FRL–9348–3), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9F7626) by Loveland Products, Inc., 7251 W. 4th St., Greeley, Colorado 80634. The petition requested that 40 CFR 180.590 be amended by establishing tolerances for residues of the insecticide 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates, 2,6-DIPN and its metabolites and degradates, in or on potato, granules/flakes at 5.5 parts per million (ppm); potato, wet peel at 6.0 ppm; potato, whole at 2.0 ppm; cattle, fat at 0.2 ppm; cattle, meat at 0.02 ppm; cattle, meat byproducts, except fat at 0.02 ppm; goat, fat at 0.2 ppm; goat, meat at 0.02 ppm; goat, meat byproducts, except fat at 0.02 ppm; horse, fat at 0.2 ppm; horse, meat at 0.02 ppm; horse, meat byproducts, except fat at 0.02 ppm; milk, fat at 0.02 ppm; sheep, fat at 0.2 ppm; sheep, meat at 0.02 ppm and sheep, meat byproducts, except fat at 0.02 ppm. One comment was submitted. An anonymous commenter (EPA–HQ–OPP–2009–0802–0003) generally expressed opposition to EPA granting this tolerance specifically because ''it is time to stop allowing so many toxic chemicals to poison earth, which end up in American bodies causing cancer and other killing deseases and even in breast milk''. After conducting a comprehensive assessment of the data and information submitted by the petitioner, EPA has concluded there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of 2,6-DIPN. Thus, under the standard in FFDCA section 408(b)(2), a tolerance is appropriate. Based upon review of the data supporting the petition, EPA has modified the tolerance expressions such that only the parent need be included in the tolerance expression for livestock commodities. The reason for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue * * *.''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for 2,6-Diisopropylnaphthalene (2,6-DIPN) and it's metabolites and degradates including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with 2,6-Diisopropylnaphthalene (2,6-DIPN) and it's metabolites and degradates follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of

B. Toxicological Endpoints

1. *Acute toxicity.* While EPA's complete discussion and analysis of acute toxicity of 2,6-DIPN can be found in the **Federal Register** of August 8, 2003 (68 FR 47246) (FRL–7321–6), in

summary, 2,6-DIPN is classified as Toxicity Category IV for the oral route of exposure (median lethal dose (LD_{50}) > 5,000 milligrams per kilogram (mg/kg)).

2. *Short- and intermediate-term toxicity.* While EPA's complete discussion and analysis of short- and intermediate-term toxicity of 2,6-DIPN can be found in the **Federal Register** of August 8, 2003, a summary is provided here. The subchronic toxicity study submitted and reviewed suggests the endpoint selection (value/dose at which an effect was observed) is the 104 milligrams per kilogram per day (mg/kg/day) no observed adverse effect level (NOAEL) based on reduced body weight, weight gain, and food consumption. Although the developmental toxicity study indicated a lower NOAEL (50 mg/kg/day) for the same toxicity, the maternal lowest observed adverse effect level (LOAEL) of 150 mg/kg/day is between the subchronic NOAEL of 104–121 mg/kg/day and the LOAEL of 208–245 mg/kg/day. The NOAEL of 50 mg/kg/day may have been appropriate for use in characterization of risks for the subpopulation of women of childbearing age; however, the response at 50 mg/kg/day in the developmental study was minimal, and the observations for toxic effects were more thoroughly documented in the subchronic study.

3. *Chronic toxicity.* EPA has established the reference dose (RfD) for 2,6-DIPN at 1 mg/kg/day. This RfD is based on results from the subchronic and developmental toxicity studies described in the **Federal Register** of September 1, 2006 (71 FR 52011) (FRL–8081–9). In support of these tolerances, the RfD remains unchanged.

4. *Carcinogenicity.* No new study results suggest that 2,6-DIPN is carcinogenic. See EPA's complete discussion and analysis in the **Federal Register** of August 8, 2003. Specific information on the studies received and the nature of the adverse effects caused by 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates as well as the NOAEL and the LOAEL from the toxicity studies are discussed in the final rule published in the **Federal Register** of August 8, 2003.

C. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates used for human risk assessment is discussed in Unit III. of the final rule published in the **Federal Register** of December 16, 2009 (74 FR 66574) (FRL–8798–5).

D. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates, EPA considered exposure under the petitioned-for tolerances as well as all existing 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates tolerances in 40 CFR 180.590. EPA assessed dietary exposures from 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

No such effects were identified in the toxicological studies for 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment anticipated residue and/or percent crop treated (PCT) were not used.

Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. In the case of 2,6-DIPN, the toxicity database did not indicate an acute endpoint, but the 100 mg/kg/day NOAEL from the subchronic toxicity study (rounded from 104 mg/kg/day) was used to evaluate potential acute dietary exposure as a conservative basis for risk characterization. Also, if the 50 mg/kg/day NOAEL from the developmental toxicity study had been used to establish an acute RfD, this choice would have been inconsistent with the use of the 100 mg/kg/day NOAEL since it implies that exposure to repeated daily doses at 100 mg/kg/day is potentially less hazardous than a single dose at 50 mg/kg/day. Given the minimal nature of the responses in the subchronic and developmental toxicity studies, and the fact that the NOAEL from the developmental study is only appropriate to the subgroup of females 13–49 years of age, using the 100 mg/kg/day RfD for the acute and chronic dietary assessments is more appropriate for assessing risk for other subgroups and the general population. Therefore, a conservative interpretation of these endpoints indicated the need for an acute dietary exposure assessment. The 100 mg/kg/day endpoint was also interpreted as requiring a chronic dietary exposure assessment.

Acute and chronic dietary exposure assessments for 2,6-DIPN were conducted using the Dietary Exposure Evaluation Model software (DEEM™ version 1.30), which incorporates consumption data from the United States Department of Agriculture's Continuing Surveys of Food Intakes by Individuals (CSFII, 1994–1996/1998). For acute exposure assessments, individual 1-day food consumption data define an exposure distribution, which is expressed as a percentage of the acute population adjusted dose (aPAD) (for 2,6-DIPN, aPAD = 0.1 mg/kg/day). For chronic exposure and risk assessment, an estimate of the residue level in each food or food-form (e.g., orange or orange juice) on the commodity residue list is multiplied by the average daily consumption estimate for the food or food-form. The resulting residue consumption estimate for each food or food-form is summed with the residue consumption estimate for all other food or food-forms on the commodity residue list to arrive at the total estimated exposure. Exposure estimates are expressed as mg/kg body weight/day and as a percent of the 2,6-DIPN chronic

population adjusted dose (cPAD) (0.1 mg/kg/day). These procedures are performed for each population subgroup.

EPA determines whether quantitative cancer exposure and risk assessments are appropriate for a food-use pesticide based on the weight of the evidence from cancer studies and other relevant data. If quantitative cancer risk assessment is appropriate, cancer risk may be quantified using a linear or nonlinear approach. If sufficient information on the carcinogenic mode of action is available, a threshold or nonlinear approach is used and a cancer RfD is calculated based on an earlier noncancer key event. If carcinogenic mode of action data are not available, or if the mode of action data determines a mutagenic mode of action, a default linear cancer slope factor approach is utilized.

Based on the data summarized in Unit III.A., EPA has concluded that 2,6-DIPN does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iii. *Anticipated residue and PCT information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates. Tolerance level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* Because 2,6-DIPN treatment of stored (i.e., post-harvest) potato occurs inside (in warehouses, for example), no concern from exposure through water is expected regarding acute and chronic dietary risk assessment. For this reason, the dietary risk assessment did not include drinking water values.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates to share a common mechanism of toxicity with any other substances, and 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

E. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There were no observed prenatal and postnatal effects.

3. *Conclusion.* Based on the risk assessments and in consideration of residue data, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of 2,6-DIPN, including its metabolites and degradates, within the existing tolerance limits resulting from post-harvest applications, undertaken in accordance with good agricultural practices and EPA-approved labeling, to potatoes. Such exposure includes all anticipated dietary exposures and all other exposures for which there is reliable information. In arriving at this conclusion, EPA has retained the tenfold margin of safety in order to adequately account for potential pre- and post-natal toxicity and completeness of the data with respect to exposure and toxicity to infants and children.

F. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, 2,6-Diisopropylnaphthalene (2,6-DIPN) and it's metabolites and degradates is not expected to pose an acute risk.

2. *Chronic risk.* There are no residential uses for 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates.

3. *Short-term risk.* Because no short-term adverse effect was identified, 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates is not expected to pose a short-term risk.

4. *Intermediate-term risk.* Because no intermediate-term adverse effect was identified, 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates is not expected to pose a intermediate-term risk.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, 2,6-DIPN is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Loveland Products, Inc. has proposed a liquid chromatographic/ultraviolet (LC/UV) detection analytical method for enforcement of tolerances for residues of 2,6-DIPN in potatoes and potato peels. While tolerances are set for livestock

commodities, no analytical method is being required for livestock commodities based on a re-evaluation of the cattle feeding study and the existing ruminant metabolism study which was conducted in goats at a feeding level two times the Maximum Reasonable Dietary Burden (MRDB). The parent compound DIPN and the metabolites M27 and M29 were quantifiable in all edible livestock matrices. In the cattle feeding study DIPN was quantifiable at exaggerated feeding levels, and at the MRDB in fat. The results of the metabolism and feeding studies indicate that fat will likely have the highest residues of any of the livestock matrices, and USDA monitors fat for pesticide residues accessed 5/10/12). Therefore, the parent will be an adequate marker for misuse, particularly with regard to fat which is the commodity most likely to have residues and most likely to be monitored. Accordingly, the residue definition for the tolerance expression can be modified to include the parent compound only.

The method (entitled, ''Liquid Chromatographic Analysis for the Determination of 2,6-Diisopropylnaphthalene (DIPN) in Potatoes and Liquid Chromatographic Analysis for the Determination of 2,6-Diisopropylnaphthalene (DIPN) in Potato Peels'' (Platte Report Number CARDC–1298–DIPN)) was used for the determination of residues of 2,6-DIPN in potatoes and potato peels.

The method includes instructions and chromatograms for analysis of samples of potatoes and potato peels. Briefly, samples are extracted with acetonitrile. The extracts are partitioned with hexane. The acetonitrile part is discarded. The hexane part is roto-evaporated to dryness. The residues are reconstituted in hexane and purified using a Florisil column. The residues are roto-evaporated to dryness and reconstituted in acetonitrile. The samples are filtered through Acrodisc® LC polyvinylidene difluoride (PVDF) 0.45 micrometer (µm) filters and analyzed by high performance liquid chromatography (HPLC) with ultraviolet (UV) detection at 254 nanometers (nm) using a Zorbax ODS column.

The validated limit of quantitation (LOQ) is 0.01 ppm for 2,6-DIPN in potatoes and 0.02 ppm in potato peels. The reported limits of detection (LODs) were 0.001 ppm for 2,6-DIPN in potatoes and potato peels. The method does not include instructions for confirmatory analysis. Method validation data for the LC/UV method demonstrated adequate method recoveries of residues of 2,6-DIPN. Potato samples were fortified with 2,6-DIPN at levels of 0.01 ppm, 0.02 ppm, 0.05 ppm, and 50 ppm. Samples were analyzed at the limit of quantitation of 0.01 ppm. Overall, recovery ranges (and CVs) from these matrices were 77.9–123.2 (13.9%) for 2,6-DIPN. Potato peel samples were fortified with 2,6-DIPN at levels of 0.02 ppm, 0.05 ppm, and 0.2 ppm. Samples were analyzed at the limit of quantitation of 0.02 ppm. Overall, recovery ranges (and CVs) from these matrices were 83.2–96.1 (5.3%) for 2,6-DIPN.

Acceptable independent laboratory validation is available for this method using potato and potato peel samples. As described in this unit, an adequate enforcement methodology (liquid chromatographic/ultraviolet detection analytical method) is available to enforce the tolerance expression for potatoes and potato peels only.

The radiovalidation data for HPLC/UV(CARDC–1298–DIPN) for the determination of residues of 2,6-DIPN in potatoes and potato peels adequately recovered residues of 2,6-DIPN from samples of whole potato and potato peels with the treatment of the active ingredient. Multiresidue testing for 2,6-DIPN showed that the multiresidue methods are not adequate for enforcement purposes since 2,6-DIPN was not recovered through any of the protocols.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates.

C. Revisions to Petitioned-For Tolerances

Time-limited tolerances for 2,6-DIPN are set to expire on May 18, 2012 (40 CFR 180.590). In consideration of whether or not the continued use of the active ingredient when used on potatoes would impose further risks to human health, EPA has reviewed newly submitted data/information multiresidue testing for 2,6-DIPN and radiovalidation of the analytical method and multiresidue testing method for determination of 2,6-DIPN in potato and potato peels as well as re-evaluated existing data/information in support of a full tolerance without time limitations. Receipt of this information satisfied the conditions of registration.

In the previous time limited tolerance, EPA determined that an acceptable revised enforcement analytical method for 2,6-Diisopropylnaphthalene (2,6-DIPN) and two metabolites (M27 and M29) in livestock commodities must be submitted. EPA also determined that radiovalidation data for 2,6-DIPN and its metabolites (M27 and M29) must also be submitted. These data have already been generated and final reports of these studies are anticipated to be submitted to the Agency by or before December 2012. Although EPA has requested additional data, EPA has revisited its original decision that the tolerance expression include two of the metabolites in addition to the parent compound. Based on this re-evaluation, EPA has decided to limit the tolerance expression to DIPN only. Feeding studies demonstrate that DIPN is quantifiable in all animal commodities. The highest residues are found in fat, and residues in fat were quantifiable without use of exaggerated feeding studies. Fat is also the commodity most frequently monitored for tolerance violative residues. Accordingly, EPA concludes that limiting the tolerance expression to parent only will be appropriate as a tolerance level for monitoring compliance with label application instructions for DIPN (the basis on which the safety determination for this tolerance was made). (Memorandum from C. Ollinger EPA/OPP/HED to L. Hollis EPA/OPP/BPPD dated May 11, 2012).

V. Conclusion

Therefore, the tolerances for residues of 2,6-Diisopropylnaphthalene (2,6-DIPN) and its metabolites and degradates, are amended, in or on potato, granules/flakes at 5.5 parts per million (ppm); potato, wet peel at 6.0

ppm; potato, whole at 2.0 ppm; cattle, fat at 0.2 ppm; cattle, meat at 0.02 ppm; cattle, meat byproducts, except fat at 0.02 ppm; goat, fat at 0.2 ppm; goat, meat at 0.02 ppm; goat, meat byproducts, except fat at 0.02 ppm; horse, fat at 0.2 ppm; horse, meat at 0.02 ppm; horse, meat byproducts, except fat at 0.02 ppm; milk, fat at 0.02 ppm; sheep, fat at 0.2 ppm; sheep, meat at 0.02 ppm and sheep, meat byproducts, except fat at 0.02 ppm.

Modification of the residue definition based on re-examination of existing data as described in Unit IV.A. and D., also require modification of the tolerance level. Residues in milk, skim milk, cream, meat, liver, and kidney will be below the limit of quantitation (LOQ) of 0.02 ppm. Therefore, the tolerance may be set at 0.02 ppm. Residues are likely to be quantifiable in fat. HED recommends a level of 0.2 ppm. This is based on the maximum residue of 0.095 from the 8.9 ppm feeding level (0.6x the MRDB) extrapolated to the 1x feeding level, (equal to 0.158 ppm) and rounded up to 0.2 ppm. The existing tolerances for DIPN residues on hog commodities may be revoked, since potatoes are no longer considered a major feed item for swine (memorandum from C. Ollinger (EPA/OPP/HED to L. Hollis EPA/OPP/BPPD dated May 11, 2012).

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 16, 2012.

Keith A. Matthews,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.590, paragraph (a) is revised to read as follows:

§ 14;180.590 2,6-Diisopropylnaphthalene (2,6-DIPN); tolerances for residues.

(a) *General.* Tolerances are established for residues of the growth inhibitor 2,6-DIPN, including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified in the following table is to be determined by measuring only 2,6-Diisopropylnaphthalene.

Commodity	Parts per million
Cattle, fat	0.2
Cattle, meat	0.02
Cattle, meat byproducts, except fat	0.02
Goat, fat	0.2
Goat, meat	0.02
Goat, meat byproducts, except fat	0.02
Horse, fat	0.2
Horse, meat	0.02
Horse, meat byproducts, except fat	0.02
Milk, fat	0.02
Potato, granules/flakes	5.5
Potato, wet peel	6.0
Potato, whole	2.0
Sheep, fat	0.2
Sheep, meat	0.02
Sheep, meat byproducts, except fat	0.02

* * * * *

[FR Doc. 2012–13203 Filed 5–31–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 417, 422, and 423

[CMS–4157–CN]

RIN 0938–AQ86

Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs for Contract Year 2013 and Other Changes; Corrections

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule with comment period; correction.

SUMMARY: This document corrects technical errors and typographical errors in the final rule with comment period entitled ''Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs for Contract Year 2013 and Other Changes'' which appeared in the April 12, 2012 **Federal Register**.

DATES: *Effective date:* This document is effective June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Kathryn Jansak, (410) 786–9364.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2012–8071 of April 12, 2012 (77 FR 22072), the final rule with comment period entitled ''Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs for Contract Year 2013 and Other Changes'' there were several technical errors and typographical errors that are identified and corrected in the Correction of Errors section.

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 22072, in the **DATES** section, we erroneously referenced the amendments to the definitions of ''other health or prescription drug coverage'' at § 423.2305 and ''supplemental benefits'' at § 423.100 as being effective January 1, 2013. We also inadvertently omitted references to several sections of the regulation text that are effective January 1, 2013.

On page 22076, the table titled ''Table 2: Finalized Revisions with Effective and/or Applicable Dates Other Than 60 Days After Publication'' was inadvertently numbered ''Table 2'' instead of ''Table 1.''

On page 22082, in the discussion regarding the effective and applicable dates of the regulatory and conforming changes to the definition of ''other health or prescription drug coverage,'' we inadvertently omitted language.

B. Summary of Errors in the Regulations Text

On page 22169, we made a typographical error in an amendatory instruction and inadvertently omitted a term in the definition of ''daily cost-sharing rate'' at § 423.100.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(b) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

This correcting document does not constitute a rulemaking that would be subject to the APA notice and comment or delayed effective date requirements. This correcting document corrects technical errors in the effective dates and typographical errors in the regulation text of the April 12, 2012 final rule with comment period and does not make substantive changes to the policies or payment methodologies that were adopted in the final rule with comment period. As a result, this correcting document is intended to ensure that information included in the April 12, 2012 final rule with comment period accurately reflects the policies adopted in that rule. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule with comment period would be contrary to the public interest. Furthermore, such procedures would be unnecessary, as we are not altering the policies that were already subject to comment and finalized in our final rule with comment period. Therefore, we believe we have good cause to waive prior notice and comment.

For the same reasons, we are also waiving the 30-day delay in effective date for these corrections. We believe that it is in the public interest to ensure that the April 12, 2012 final rule with comment period accurately states our policies as of the date they take effect. Therefore, we find that delaying the effective date of these corrections beyond the effective date of the final rule with comment period would be contrary to the public interest. In so doing, we find good cause to waive the 30-day delay in the effective date.

IV. Correction of Errors

In FR Doc. 2012–8071 of April 12, 2012 (77 FR 22072), make the following corrections:

A. Correction of Errors in the Preamble

1. On page 22072, first column, ''**DATES**'' section, the paragraph that begins ''These regulations are effective'' and ends ''are effective January 1, 2013'' is corrected to read ''These regulations are effective on June 1, 2012 unless otherwise specified in this final rule. The amendments to: the definition of ''Part D drugs'' at § 423.100; § 423.153(d)(1)(vii)(B); § 423.600(a) through (c); and § 423.602(a) are effective January 1, 2013. See section I.B. of this final rule with comment period and Table 1 for additional information regarding effective and applicability dates.''

2. On page 22076, bottom half of the page, the table heading, ''TABLE 2—FINALIZED REVISIONS WITH EFFECTIVE AND/OR APPLICABLE DATES OTHER THAN 60 DAYS AFTER PUBLICATION'' is corrected to read ''TABLE 1—FINALIZED REVISIONS WITH EFFECTIVE AND/OR APPLICABLE DATES OTHER THAN 60 DAYS AFTER PUBLICATION''.

3. On page 22082, third column, second full paragraph, line 17, the phrase ''existing definition will on'' is corrected to read'' ''existing definition will be applicable on''.

B. Correction of Errors in the Regulations Text

■ 1. On page 22169, first column—

■ A. Fourth full paragraph, (amendments to § 423.100, amendatory instruction 24.B.) lines 5 and 6, the sentence ''By revising paragraph (2)(iii) of the definition of ''Incurred costs'' is corrected to read ''By revising paragraph (2)(ii) of the definition of ''Incurred costs''.

■ B. Tenth full paragraph (paragraph (2) of the definition of ''Daily cost-sharing'' at § 423.100), line 2, the phrase ''enrollee's Part D'' is corrected to read ''enrollee's Part D plan''.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program) (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774)

Dated: May 24, 2012.

Jennifer M. Cannistra,

Executive Secretary to the Department.

[FR Doc. 2012–13362 Filed 5–31–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120309176–2075–02]

RIN 0648–BB56

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 18A

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 18A to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 18A), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This rule modifies the current system of accountability measures for black sea bass, limits effort in the black sea bass segment of the snapper-grouper fishery, and improves fisheries data in the for-hire sector of the snapper-grouper fishery. Amendment 18A also updates the rebuilding plan and modifies the acceptable biological catch (ABC) for black sea bass. This final rule is intended to reduce overcapacity in the black sea bass segment of the snapper-grouper fishery.

DATES: This rule is effective July 1, 2012.

ADDRESSES: Electronic copies of Amendment 18A may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm.* Amendment 18A includes an Environmental Impact Statement, a Regulatory Impact Review, and a Fishery Impact Statement.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and OMB, by email at *OIRA Submission@omb.eop.gov,* or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Kate Michie, 727–824–5305.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On January 31, 2012, NMFS published a notice of availability for Amendment 18A and requested public comment (77 FR 4754). On March 23, 2012, NMFS published a proposed rule for Amendment 18A and requested public comment (77 FR 16991).

NMFS partially approved Amendment 18A on May 2, 2012. NMFS disapproved the action establishing transferability criteria for the black sea bass pot endorsement, explaining that the amendment identified the wrong preferred alternative selected for this action, and there were discrepancies in the record regarding the Council's discussion of the alternatives and the text describing and analyzing this alternative in the document. Because the Council's intent was unclear from the administrative record, NMFS was unable to implement this action in compliance with the Administrative Procedure Act. The Council is addressing transferability criteria for black sea bass pot endorsements in a separate FMP amendment, which is currently under development.

The proposed rule and Amendment 18A outline the rationale for the actions contained in this final rule. The proposed rule incorrectly indicated that it would modify the black sea bass rebuilding strategy and ABC. Although these measures are included in Amendment 18A, they are not codified in the regulations. A summary of the actions implemented by this final rule is provided here.

This rule modifies the black sea bass annual catch limit (ACL); limits participation in the black sea bass pot segment of the snapper-grouper fishery through an endorsement program; establishes an appeals process for fishermen excluded from the black sea bass pot endorsement program; limits the number of pot tags issued to participants in the black sea bass pot segment of the snapper-grouper fishery; implements measures to reduce black sea bass bycatch; modifies accountability measures (AMs) for black sea bass; establishes a commercial trip limit for black sea bass; modifies the current commercial and recreational black sea bass size limits; and improves data reporting in the for-hire sector of the snapper-grouper fishery. The intent of this rule is to reduce overcapacity in the black sea bass segment of the snapper-grouper fishery.

Comments and Responses

A total of 28 comments were received on the proposed rule and Amendment 18A from individuals, Federal agencies, and fishing associations. NMFS received 2 comments of general support and 26 individual comments opposing one or more actions contained in Amendment 18A. Several of the comments recommended alternative management measures for black sea bass. Specific comments related to the actions contained in the amendment and the rule as well as NMFS' respective responses, are summarized below.

Comment 1: Several commenters stated they have recently seen more black sea bass and larger black sea bass than in previous years. Additionally, several commenters stated they are seeing black sea bass in areas where they were not previously found. For these reasons the same commenters stated the commercial and recreational ACLs for black sea bass should be significantly increased to allow for more fishing of the stock.

Response: Many fishery participants have indicated they are now seeing more black sea bass and larger black sea bass than in recent years, which is consistent with the finding of the most recent Southeast, Data, Assessment, and Review (SEDAR) for black sea bass which was completed in October 2011 (SEDAR 25). SEDAR 25 indicates that black sea bass are no longer overfished, but are not yet fully rebuilt, and that black sea bass was experiencing overfishing to a small extent based on data from 2009 and 2010. Amendment 17B to the FMP (Amendment 17B), which was implemented on January 31, 2011, established ACLs and AMs for black sea bass to ensure overfishing of black sea bass does not occur (75 FR 82280).

The Magnuson-Stevens Act requires rebuilding plans to rebuild a stock within 10 years except under limited

circumstances. The rebuilding strategy for black sea bass, which was implemented in 2006 through Amendment 13C to the FMP (71 FR 55096, September 21, 2006), holds catch at a constant level as the stock size increases. The target time for rebuilding black sea bass is 2016. Because the stock is rebuilding, fishermen are encountering black sea bass more frequently than in recent years.

NMFS is implementing, through this final rule, a modified rebuilding strategy that holds the combined commercial and recreational ACL at 847,000 lb (384,200 kg), round weight [717,797 lb (325,587 kg), gutted weight] for the next 2 fishing years; then changes the ACL to the yield at $F_{Rebuild}$. The Council's Scientific and Statistical Committee (SSC) endorsed this modification to the current rebuilding strategy, but recommended the ACL not be modified until a stock assessment update is completed before the 2014/2015 fishing year. This rebuilding strategy has a 66 percent probability of rebuilding the stock by 2016 while allowing increases to the ACL, if supported by the next stock assessment.

Comment 2: One commenter is concerned that the continued shortening of the commercial fishing season for black sea bass has led to decreased revenues for his business.

Response: The black sea bass commercial sector has closed much earlier the past 3 fishing years than in previous years, and in each of these years the fishing season was shorter than the previous fishing season. Thus, fishermen have experienced market glut during the months of June, July, and August, and the purchase and sale of black sea bass have been prohibited for the remainder of the season. Actions in Amendment 18A are intended to extend fishing opportunities further into the fishing season to mitigate these negative socioeconomic effects.

Comment 3: One commenter states that the early in-season closures in the commercial and recreational sectors during the 2011/2012 fishing year were not necessary because the stock is no longer overfished.

Response: Results of a 2011 stock assessment indicate that black sea bass are no longer overfished but are not rebuilt, and that the stock was undergoing overfishing to a minor degree according to 2009 and 2010 data. Following this overfishing determination, Amendment 17B implemented AMs and ACLs on January 31, 2011, as required by the Magnuson-Stevens Act, to ensure that overfishing of black sea bass does not occur. In-season closures are a part of the system of commercial and recreational AMs and ACLs for the black sea bass component of the snapper-grouper fishery. The commercial sector AM for black sea bass closes the commercial sector if commercial landings reach, or are projected to reach, the commercial quota, which serves as the functional commercial sector ACL.

The recreational sector AMs for black sea bass include closing the recreational sector when the ACL is met or projected to be met if the stock is overfished. Because the stock was still considered overfished during the 2011/2012 fishing year the sector was closed on October 17, 2011, based on projections that the recreational ACL would be reached by that time. This final rule will modify the current recreational AMs to provide the Regional Administrator with the authority to close the recreational sector when the ACL is met or projected to be met regardless of the overfished status of black sea bass.

Comment 4: One commenter states that the most recent stock assessment for black sea bass should have been delayed until 2011 data for the black sea bass segment of the snapper-grouper fishery could be included. One commenter recommends doing a new stock assessment for black sea bass as soon as possible because the species may no longer be undergoing overfishing.

Response: NMFS and the Council must schedule stock assessments several years in advance to allow time for the needed data to be compiled for use by stock assessment scientists. Stock assessment schedules are reviewed by the Council and approved by the SEDAR Steering Committee. The schedule may be found at the SEDAR Web site: *http://www.sefsc.noaa.gov/sedar/SEDAR_PlanSchedule_Nov2011.pdf.* The next black sea bass stock assessment has not been scheduled yet.

Amendment 17B (75 FR 82280, December 30, 2010) contained ACLs and AMs to address black sea bass overfishing, and prevent future overfishing from occurring, as required by the Magnuson-Stevens Act. Delaying the assessment until 2011 data became available would have delayed the implementation of Amendment 18A by 1 to 2 years. The Council's SSC endorsed a modified rebuilding strategy, previously discussed under the response to Comment 1, but recommended that the ACL not be modified until a stock assessment update is completed prior to the 2014/2015 fishing year. The stock assessment update would include any effects the actions in Amendment 17B may have had on ending overfishing of black sea bass.

Comment 5: One commenter inquired as to why Mid-Atlantic and New England black sea bass have been successfully rebuilt while South Atlantic black sea bass have not.

Response: Black sea bass are managed as separate stocks north and south of Cape Hatteras, North Carolina. When establishing a rebuilding plan for an overfished species, each Council must take into account many variables including the degree to which overfishing is occurring, Magnuson-Stevens Act requirements, the social and economic environment, and trends in effort which are unique to different fisheries. In 2000, black sea bass north of Cape Hatteras, North Carolina, were considered to be overfished and undergoing overfishing, and actions were taken to rebuild the stock. According to the 2010 Status of U.S. Fisheries found at: *http://www.nmfs.noaa.gov/sfa/statusoffisheries/2010/2010_FSSI_non_FSSI_stockstatus.pdf,* black sea bass north of Cape Hatteras, North Carolina, are no longer overfished and are not undergoing overfishing. A 2005 stock assessment indicated that the black sea bass stock south of Cape Hatteras, North Carolina, was still overfished and undergoing overfishing. Amendment 15A to the FMP implemented a 10-year rebuilding plan for South Atlantic black sea bass in 2008, designating 2006 as year one of the plan. The most recent stock assessment for South Atlantic black sea bass, SEDAR 25, indicates that the stock is on track to be rebuilt by 2016.

Comment 6: Several commenters stated the amount of regulatory discards of species, such as black sea bass, caused by a low bag limit and small recreational ACL has negatively impacted for-hire businesses because paying customers are not willing to charter vessels for trips that only allow catch-and-release. Thus, the number of trips and quality of trips for some for-hire businesses has decreased. On the other hand, two recreational anglers support a reduced bag limit in order to keep the recreational fishing season open longer.

Response: Amendment 17B to the FMP implemented a recreational ACL for black sea bass of 409,000 lb (185,519 kg), gutted weight [482,620 lb (218,913 kg), round weight]. In Amendment 18A, the Council considered a range of alternatives for modifying the rebuilding plan and the combined commercial and recreational ACL. The Council decided to maintain the combined ACL established in Amendment 17B through

the 2013/2014 fishing year until a stock assessment update can be completed. At that time the Council can decide whether increasing the combined ACL is appropriate. Further, the Council and NMFS anticipate a large increase in the allowable catch when the stock is rebuilt in 2016. Regulatory Amendment 9 to the FMP and its implementing final rule (76 FR 34892, June 15, 2011) reduced the recreational bag limit from 15 fish to 5 fish per person. The recreational bag limit was not the subject of the proposed rule to implement Amendment 18A; and therefore, the comments related to the recreational bag limit are beyond the scope of this rulemaking.

Comment 7: One commenter stated it is incorrect for NMFS to partially attribute the early ACL closures in the black sea bass segment of the snapper-grouper fishery to shifting effort from other more heavily regulated species. The commenter states that anglers who would normally target species such as red snapper, for which harvest is now prohibited in the exclusive economic zone (EEZ), are not likely to shift their fishing effort to black sea bass. The commenter suggested effort would likely shift towards groupers, mutton snapper, or some other large fish species, all of which are legal to harvest June through October.

Response: The rebuilding black sea bass population, which has led to increased catch per unit effort, is likely a more significant contributor to the ACLs being met early in the fishing season than effort shifting during the past 2 fishing years. However, during the initial development of Amendment 18A, the black sea bass commercial sector of the snapper-grouper fishery was open during seasonal closures for other species (vermillion snapper and shallow-water groupers) and total prohibitions on other species (red snapper). This scenario is likely to have caused some level of effort shifting to black sea bass. Additionally, the Council determined that management restrictions placed on other snapper-grouper species could cause further effort shifting to black sea bass in the South Atlantic.

Comment 8: One commenter recommends that each state be assigned its own black sea bass quota based on historical landings, and argues that the Council process is no longer effective for the successful management of black sea bass because it does not allow for state-by-state quotas. One commenter suggests that the Council manage black sea bass off the coast of Florida separately from the other states in the South Atlantic, and another commenter suggests that the Council manage black sea bass off the coast of North Carolina separately from the other states in the South Atlantic. One commenter recommends the creation of separate ACLs for the two gear components of the commercial black sea bass sector; namely, an ACL for the pot component and an ACL for the hook-and-line component.

Response: The Council has discussed state-by-state quotas several times in reference to various fish species including black sea bass. However, enforcement of different state quotas or ACLs along state boundary lines is likely to be very difficult. Additionally, administrative difficulties associated with monitoring very small state ACLs have prevented the Council from endorsing state-by-state quotas as a management tool. Implementing gear specific ACLs for the pot and hook-and-line components of the commercial black sea bass sector would have similar issues, and enforcement of these separate component ACLs would be difficult if fishermen used both gear types on one vessel. Again, monitoring these smaller component ACLs would be administratively difficult. However, the Council will continue to discuss these issues and explore options for implementation of state ACLs and separate gear ACLs as quota monitoring capabilities improve over time.

The Council process is effective in managing the black sea bass stock in the South Atlantic. In 2005, a stock assessment indicated that black sea bass in the South Atlantic was still overfished and undergoing overfishing. Through the Council process a rebuilding plan was implemented and the most recent stock assessment indicates that this stock is no longer overfished and is on track to be rebuilt by 2016.

Comment 9: One commenter recommends a recreational tag program where recreational anglers are issued a pre-set number of tags (similar to North Carolina swan tags) that can be used to harvest black sea bass throughout the year. The commenter believes that a tag system for black sea bass would allow recreational fishermen to participate in the black sea bass segment of the snapper-grouper fishery throughout the year, and could improve recreational data for black sea bass. One commenter recommends that NMFS use game wardens to perform dockside checks to gather recreational harvest data, or have state game wardens fill out catch reports because recreational fishermen may not accurately report their catch during dockside and phone interviews.

Response: The suggestion of tag limits to allow participation throughout the year or improve data collection, and the use of game wardens were not the subject of the proposed rule to implement Amendment 18A; the purpose of Amendment 18A is to address overcapacity in the black sea bass segment of the snapper-grouper fishery and therefore, the comments related to tag limits and game wardens are beyond the scope of this rulemaking. However, the Council is not precluded from considering a fish tag program or other ways to collect data in the future.

Comment 10: One commenter is concerned the increasing rate of recreational harvest of black sea bass is shrinking the allocation for the commercial sector. The same commenter recommends establishing a control date using a year when commercial and recreational harvest were closer to being equal and implementing a Federal recreational fishing permit with reporting requirements.

Response: As noted in response to Comment 6 above, the Council considered modifying the combined commercial and recreational ACL in Amendment 18A but chose to maintain the combined ACL established in Amendment 17B until a stock assessment update is completed. These ACLs are based on the 57 percent recreational/43 percent commercial allocation established in Amendment 13C to the FMP (71 FR 55096, September 21, 2006), which used historical landings data from 1999–2003. The Council did not consider changing this allocation formula in Amendment 18A.

The Council recommended a control date of December 4, 2008, for the black sea bass pot segment of the snapper-grouper fishery (74 FR 7848, February 20, 2009) based on concerns about a potential increase in the number of participants in the fishery that may result because of increased regulations on other species in the snapper-grouper complex. However, the Council did not use the December 4, 2008 control date because they decided that the eligibility criteria should give more weight to present participation in the fishery. The Council's eligibility criteria included average annual historical landings of at least 2,500 lb (1,134 kg), round weight [2,118 lb (961 kg), gutted weight] between January 1, 1999, and December 31, 2010, in addition to having some (at least 1 1b (0.4 kg)) reported black sea bass landings between January 1, 2008, and December 31, 2010.

A recreational permit program for private recreational anglers was also not

the subject of the proposed rule implementing Amendment 18A, and therefore, the comments related to a recreational permit program are beyond the scope of this rulemaking. However, this does not preclude the Council from considering such a program in the future.

Comment 11: Two commenters state that the Council should declare its long-term objectives for the black sea bass commercial sector in order to establish reasonable allocations. Additionally, one commenter states that NMFS is disproportionately swayed by environmental organizations in their precautionary approach to managing black sea bass, and NMFS does not adequately take into account the concerns of the recreational sector when making decisions.

Response: The Council's long-term objective for the commercial black sea bass sector within the snapper-grouper fishery is to achieve the optimum yield (OY) for the resource. The Council did not consider changing the commercial and recreational allocations in Amendment 18A. However, the Council did consider minimizing adverse socioeconomic impacts to the recreational and commercial black sea bass sectors when developing the management measures contained in Amendment 18A and this final rule.

Throughout the development of Amendment 18A and this rulemaking, the Council and NMFS considered input from all stakeholders. No one organization or entity was given a disproportionate influence in public participation during the Council and rulemaking process.

Comment 12: One commenter states that NMFS should allocate fewer funds to the Council's advisory panels (APs) and re-allocate those funds to law enforcement because the APs do not function adequately.

Response: This comment is beyond the scope of this rulemaking and, therefore, is not addressed here.

Comment 13: One commenter supports a mid-August to mid-December seasonal closure if NMFS chooses to implement a seasonal closure. These months are considered the slowest time of year for the for-hire sector in the state of Florida, and any closure that would include the months of May through July is discouraged because black sea bass are one of the only species available when bottom water off the Florida coast cools in the summer. One commenter recommended changing the opening date of the black sea bass component of the snapper-grouper fishery to coincide with the opening of the vermilion snapper fishing season, which is July 1, in order to reduce the directed targeting of black sea bass during the month of June.

Response: The Council only considered seasonal closures during the black sea bass spawning season, which is March through May. The Council chose not to implement a spawning season closure for black sea bass based on information that indicated black sea bass do not have increased vulnerability during the spawning season like other snapper-grouper species, such as shallow-water groupers. Additionally, Amendment 18A states that peak spawning for black sea bass occurs at different times of the year in different areas of the South Atlantic, ranging from late winter/early spring off Georgia and Florida to primarily spring off North Carolina and South Carolina. The lack of a spawning season closure should not have a negative impact on spawning of black sea bass. The Council could revisit options for black sea bass seasonal closures in the future.

Amendment 13C to the FMP (71 FR 55096, September 21, 2006) established a June 1 start date for the black sea bass fishing year for both the commercial and recreational sectors with the intent that, if a closure should occur, it would most likely coincide with the black sea bass spawning season. The Council again considered a change in the black sea bass fishing year as a possible means to extend the black sea bass season during the development of Regulatory Amendment 9 to the FMP (76 FR 34892, June 15, 2011), although they decided not to change the starting date for the fishing year at that time. Furthermore, the Council considered two 6-month fishing seasons (June–November and December–May) for black sea bass in Regulatory Amendment 9. However, NMFS disapproved this action due to concerns this action could result in the presence of numerous vertical black sea bass pot buoy lines within the endangered northern right whale migration route during the time of year when the whales are transiting off the Southeast coast.

The Council recognizes that the timing of the opening and closing dates of the fishing season affects South Atlantic states differently. For this reason, the Council has discussed the possibility of state-by-state quotas for black sea bass and could consider such a regional approach to management in a future amendment. Additionally, the Snapper-Grouper AP has expressed its support for this type of a regional approach to the management of black sea bass.

Comment 14: Four commenters state that an in-season closure of the black sea bass segment of the snapper-grouper fishery during the winter is not an appropriate management measure because the winter months are the time when black sea bass are most prolific off the coast of North Carolina, and fishing during the winter would help maximize profitability of for-hire operations.

Response: Regulations implementing Amendment 17B included AMs for black sea bass to ensure that the ACL is not exceeded and to correct for an ACL overage should one occur. One component of the system of AMs implemented through Amendment 17B is that the recreational sector will close when the recreational sector ACL is met or projected to be met, but it only applies if the stock is overfished. Regardless of overfished status, the ACL would be reduced by the amount of the overage in the following year. The Council determined that an in-season closure is needed for the recreational sector regardless of the overfished status because catches have increased for black sea bass as the stock rebuilds. Thus, the overage could be very large, and a substantial reduction in the ACL could occur in the following year if there is no in-season closure of black sea bass. Therefore, the Council selected the alternative that provides the RA authority to close the recreational sector when the ACL is met or projected to be met regardless of the overfished status of the stock. The timing of a commercial or recreational in-season closure will depend on the fishing effort and when landings reach the appropriate level to trigger the AMs.

Comment 15: Two recreational anglers state that the two main issues that negatively impact the black sea bass stock are inadequate Federal management and continuing to allow the use of black sea bass pots.

Response: For reasons articulated in Amendment 4 to the FMP, black sea bass pots are an allowable and appropriate gear type for black sea bass. The final rule implementing Amendment 4 to the FMP contained a prohibition on the use of fish traps in the South Atlantic EEZ based on concerns related to ghost fishing by lost traps, habitat damage, enforcement difficulties, and bycatch mortality issues. Page 71 of Amendment 4 outlines the rationale for the Council's choice to prohibit all fish traps, except black sea bass pots, north of 28°35.1′ N latitude because black sea bass pot construction specifications make them highly selective for black sea bass, and bycatch is minimal.

Federal management of black sea bass includes a rebuilding plan and commercial and recreational ACLs and

AMs. Currently, when the commercial ACL is reached or projected to be reached, commercial harvest and sale of the species is prohibited and the black sea bass pots must be removed from the water. This rule implements an endorsement program that limits the number of commercial permit holders allowed to fish for black sea bass with pot gear. This rule also limits the number of black sea bass pot tags issued to each endorsement holder each permit year; specifies a commercial trip limit; increases the commercial minimum size limit; and requires that all black sea bass pots be brought back to shore at the conclusion of each trip. The Council and NMFS believe that these measures, together with the existing measures, comprise an appropriate conservation and management program for black sea bass in the South Atlantic.

Comment 16: Two commenters support the actions contained in Amendment 18A that update the rebuilding plan for black sea bass based on the most recent stock assessment. One commenter states that the rebuilding strategy should be based upon a constant fishing mortality rate, rather than a constant catch rate.

Response: NMFS agrees that the actions updating the rebuilding plan based on the most recent stock assessment are appropriate.

The Council considered various rebuilding plans based on either a constant fishing mortality rate or on a constant catch rate. Originally, the Council chose to define a rebuilding strategy for black sea bass that maintains a constant fishing mortality rate throughout the remaining years of the rebuilding timeframe, which would allow the greatest amount of harvest possible, while still having a 50 percent chance of rebuilding by 2016. However, at its December 2011 meeting, the Council determined a more conservative rebuilding strategy alternative that incorporates a higher probability of rebuilding by the start of the 2016/2017 fishing year is more appropriate for the stock. Therefore, the preferred rebuilding strategy alternative was changed from a constant fishing mortality rate to a rebuilding strategy that would hold catch at the current level for the 2012/2013 and 2013/2014 fishing years, and then change to a constant catch rebuilding strategy. The Council's preferred rebuilding strategy has a 66 percent chance of rebuilding the stock by 2016.

Comment 17: A number of commenters expressed concerns regarding the eligibility criteria for the black sea bass pot endorsement. Two commenters oppose the landings qualification because it will exclude some fishermen who have invested in the black sea bass commercial sector of the snapper-grouper fishery. Another commenter believes too many Unlimited South Atlantic Snapper-Grouper Permit holders will qualify for the endorsement. Two commenters are concerned that the endorsement program favors older fishermen with a more established catch history for black sea bass. One commenter states that the Councils choice of qualifying criteria for the endorsement program is not fair and equitable.

Response: The objective of the black sea bass endorsement program is to reduce the rate of harvest and limit the number of the participants in the black sea bass pot segment of the snapper-grouper fishery to curtail derby fishing conditions, which have caused the commercial fishing season to close early for the past 3 fishing years. In determining which eligibility criteria were most appropriate, the Council considered this objective and the requirements for establishing a limited access system set forth in section 303(b)(6) of the Magnuson-Stevens Act (16 U.S.C. 1853(b)(6)), which include present participation in the fishery and historical fishing practices in, and dependence on the black sea bass segment of the snapper-grouper fishery, and the fair and equitable distribution of fishing privileges.

Regarding the number of permit holders who will qualify for the endorsement, prior to the Council finalizing Amendment 18A at its December 2011 meeting, the preferred endorsement eligibility criteria required that fishermen have average annual historical landings greater than 3,500 lb (1,588 kg), round weight [2,966 lb (1,345 kg), gutted weight] between January 1, 1999, and December 31, 2010. Under the 3,500-lb (1,588-kg), round weight criterion, 24 fishery participants would be eligible to receive black sea bass pot endorsements.

After reviewing public comments during its December 2011 meeting, the Council determined that limiting the number of black sea bass pot endorsements to 24 participants would eliminate too many fishermen from the black sea bass pot segment of the snapper-grouper fishery who had historically fished large quantities of black sea bass with pot gear. Therefore, the Council chose to change its preferred eligibility criteria to average annual historical landings of at least 2,500 lb (1,134 kg), round weight [2,118 lb (961 kg), gutted weight] between January 1, 1999, and December 31, 2010, in addition to having some (at least 1 1b (0.4 kg)) reported black sea bass landings between January 1, 2008, and December 31, 2010. This addressed both historical fishing practices as well as current participation in the black sea bass pot segment of the snapper-grouper fishery. Applying these new criteria will result in the issuance of 31 endorsements. The Council determined that this resulted in the fair and equitable distribution of fishing privileges.

Comment 18: Two commenters recommend that the Council allow management measures such as the commercial trip limit and the limit on the number of black sea bass pot tags issued to each permit holder each permit year, to work before reducing capacity in the pot segment of the fishery through an endorsement program.

Response: As noted in the response to comment 17, the objective of the black sea bass endorsement program is to reduce the rate of harvest and limit the number of the participants in the black sea bass pot segment of the snapper-grouper fishery to curtail derby fishing conditions, which have caused the commercial fishing season to close early for the past 3 fishing years. The Council does not believe that a commercial trip limit and limitation on the number of black sea bass pots alone will be sufficient to ease derby fishing conditions.

Comment 19: One commenter states that only two black sea bass pot fishermen in the state of Florida would qualify for the endorsement.

Response: NMFS estimates that six fishermen from Florida (identified by the address on record with the NMFS Permits Office) will qualify for a black sea bass endorsement.

Comment 20: One commenter suggests that a catch share program for black sea bass is a more appropriate means of managing the commercial sector rather than an endorsement program. The commenter cites the need to provide black sea bass to consumers year round and prevent market gluts when the black sea bass season opens.

Response: This comment is beyond the scope of this rulemaking. However, the Council previously considered an action to establish a catch share program for black sea bass in Amendment 21 to the FMP but tabled that amendment due to lack of public support. The Council may decide to again consider a catch share program for black sea bass in the future.

Comment 21: Two commenters support the endorsement program appeals process included in Amendment 18A.

Response: NMFS agrees that setting aside a period of time for those who feel they may have been inappropriately excluded from the black sea bass pot endorsement program to appeal their exclusion from the program is important and consistent with appeals processes for limited access programs implemented by NMFS.

Comment 22: Three commenters support limiting the number of black sea bass pot tags issued to each endorsement holder per permit year to 35.

Response: NMFS agrees that limiting the number of black sea bass pot tags issued to each endorsement holder to 35 tags per permit year will be an effective means of reducing the rate of harvest of black sea bass in the commercial sector, improve in-season management of the species, reduce the amount of vertical-line gear in the water to reduce entanglement risks to protected species in the area, reduce the chance that pots could be lost and that ghost fishing could occur, and limit overall effort in the black sea bass pot segment of the snapper-grouper fishery.

Comment 23: Two commenters support the provision to require black sea bass traps to be brought back to shore at the end of each trip. One commenter opposes this provision because some fishermen may fish differently in other regions of the South Atlantic and one commenter opposes this provision because the same is not required for spiny lobster traps, which are fished in much greater abundance than black sea bass pots. One commenter states that ghost fishing can be addressed through the use of improved biodegradable escape panels. This same commenter is concerned that traps would be required to be pulled from the water during foul weather events.

Response: Currently, black sea bass fishermen can leave black sea bass pots in the water for the duration of the commercial fishing season. Although approximately 62 percent of black sea bass pot fishermen currently bring their black sea bass pots back to shore at the conclusion of each trip, others may leave untended gear in the water for the entire season. Allowing this practice to continue would perpetuate the problem of ghost fishing by lost traps.

However, ghost fishing by lost black sea bass pots is not the only rationale for requiring that the pots be brought back to shore at the end of every trip. The longer the black sea bass pots remain in the water the greater the risk of lost pots, unintended bycatch of black sea bass, and the amount of vertical-line gear in the water. This is true regardless of where black sea bass pot fishing takes place within the South Atlantic Region.

Weather is always a factor that must be considered in planning fishing trips. NMFS believes that fishers will make informed decisions about when to fish and when to end a trip and pull traps from the water.

The Council recognized that there are similar concerns with spiny lobster traps and addressed the issue of removing derelict spiny lobster traps in Amendment 10 to the Spiny Lobster FMP (76 FR 75488, December 2, 2011).

Comment 24: Four commenters support the 1,000-lb (454-kg), gutted weight, commercial trip limit for black sea bass.

Response: NMFS supports the 1,000-lb (454-kg), gutted weight, commercial trip limit for black sea bass as a means of extending the commercial fishing opportunities further into the fishing year, while still allowing commercial black sea bass pot fishermen to have economically profitable trips.

Comment 25: Two commenters support requiring selected for-hire vessels to report landings information electronically.

Response: NMFS supports the requirement that selected for-hire (both charter and headboat) vessels report landings information electronically on a weekly or daily basis. Currently, selected charter vessels are required to report on a weekly basis, and selected headboat vessels are required to report at the end of each month. Increased reporting frequency for selected for-hire vessels will improve in-season management of the recreational sector for snapper-grouper.

Comment 26: Four commenters support increasing the commercial and recreational minimum size limits for black sea bass. Several commenters noted a disparity between commercial and recreational restrictions on fishing for black sea bass. Specifically, several commenters oppose increasing the recreational minimum size limit without increasing the commercial minimum size limit to the same size. One commenter states that the increase of the recreational minimum size limit is too large and would guarantee increased discards. Two commenters state the recreational minimum size limit should be 12 inches (30 cm), TL. Two commenters oppose the use of minimum size limits as a management measure for black sea bass.

Response: NMFS is increasing the minimum size limit for black sea bass in the commercial sector from 10 inches (25 cm), TL, to 11 inches (28 cm), TL, and in the recreational sector from 12 inches (30 cm), TL, to 13 inches (33 cm), TL. Public hearing comments were divided on the usefulness of increasing minimum size limits for black sea bass. The Snapper-Grouper AP supported increasing the minimum size limits to slow the rate of harvest of black sea bass. The SSC also supported increasing the recreational and commercial black sea bass minimum size limits because larger fish are economically more valuable.

The Council determined that it was unnecessary for the commercial and recreational minimum size limits to be the same because the commercial and recreational sectors for black sea bass are managed differently. The commercial and recreational sectors are each allocated their own portion of the allowable catch and each sector will close when their respective ACLs are met or are projected to be met.

The most recent stock assessment for black sea bass (SEDAR 25) indicates release mortality of black sea bass is very low (7 percent for hook-and-line; 1 percent for black sea bass pot) if fish are returned to the water quickly. The Council chose an 11-inch (27.9 cm) size limit for the commercial sector because pots catch a large number of fish and the Council was concerned that a substantial increase in the minimum size limit for the commercial sector could cause an increase in dead discards if there was an increase in the time undersized black sea bass were out of the water. The current minimum size limit in the commercial sector is 10 inches (25 cm), TL, and the 2-inch (5-cm) back panel of the pots culls out a large portion of fish less than 11-inches (28-cm), TL.

Recreational sector participants use hook-and-line gear, which generally catches one or two fish at a time. Therefore, regulatory discards in the recreational sector are more likely to be released quickly and alive, when compared to the commercial sector if there are large numbers of undersized fish to cull out.

Comment 27: Several commenters oppose implementing a 1,000-lb (454-kg), gutted weight, commercial trip limit, while the recreational sector is limited to only 5 fish per person per day.

Response: The Council did not address the recreational bag limit for black sea bass in Amendment 18A. The 5-fish bag limit was implemented through Regulatory Amendment 9 in 2011. Previously, the commercial sector had no trip limit, which contributed to derby fishing conditions that negatively affect profitability and safety of fishermen. The 1,000-lb (454-kg), gutted weight, trip limit is expected to reduce

the rate of harvest and help constrain harvest to the ACL.

Comment 28: One commenter states that commercial trip limits and the requirement that pots be brought to shore each day is not necessary to reduce the risk of right whale interactions with black sea bass pots. This commenter believes that gear modifications could reduce the risk of interactions with right whales and notes that there has never been a documented interaction between black sea bass pot gear and right whales.

Response: NMFS completed a biological opinion on the South Atlantic snapper-grouper fishery on June 7, 2006. The biological opinion concluded that the continued authorization of the snapper-grouper fishery was not likely to adversely affect marine mammals, in part, because there has never been a documented interaction between black sea bass pot gear and large whales in the South Atlantic. However, for a majority of large whale entanglements, the actual fishery involved in the interaction cannot be determined and entanglements in trap gear similar to black sea bass pots have occurred in the South Atlantic. Thus, there is the risk of large whale entanglements in black sea bass pot gear.

The management measures contained in Amendment 18A, including the commercial trip limit and the requirement to return black sea bass pot gear to shore at the conclusion of each trip, lessen that risk. The Atlantic Large Whale Take Reduction Team (ALWTRT) has identified reducing the entanglement of North Atlantic right whales in vertical lines (i.e., trap lines), particularly in the Southeast during the winter calving season (November-April), as a conservation priority. As part of their objective of large whale conservation, the ALWTRT may consider the use of modified vertical line gear that decreases the risk of entanglement of large whales.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is consistent with the FMP, Amendment 18A, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Council and NMFS prepared a final environmental impact statement (FEIS) for Amendment 18A. The FEIS was filed with the EPA on February 10, 2012. A notice of availability was published on February 17, 2012 (77 FR 9652). In partially approving Amendment 18A, NMFS issued a Record of Decision identifying the selected alternatives. A copy of the record of decision (ROD) is available from NMFS (see **ADDRESSES**).

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant economic issues raised by public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. The FRFA follows.

No public comments specific to the IRFA were received and, therefore, no public comments are addressed in this FRFA. However, several comments with socioeconomic implications were received and are addressed in the Comments and Responses section in the responses to comments #2, 6, and 17. No changes in the final rule were made in response to public comments.

NMFS agrees that the Council's choice of preferred alternatives would best achieve the Council's objectives while minimizing, to the extent practicable, the adverse effects on fishers, support industries, and associated communities. The preamble to the final rule provides a statement of the need for and objectives of this rule, and it is not repeated here.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

This final rule will introduce certain changes to current reporting, record-keeping, and other compliance requirements. In particular, a sample of the 1,985 vessels with for-hire snapper-grouper permits would be required to electronically report their harvest. Because all headboats are currently subject to logbook reporting, the incremental professional skill needed under the new requirement would be relatively small. The incremental professional skill required of charterboats would be relatively higher because only about 10 percent of charter captains are currently contacted on a weekly basis to collect trip level information.

NMFS expects this final rule to directly affect commercial fishers and for-hire operators. The Small Business Administration established size criteria for all major industry sectors in the U.S. including fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of $4.0 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide. For for-hire vessels, other qualifiers apply and the annual receipts threshold is $7.0 million (NAICS code 713990, recreational industries).

From 2005–2010, an annual average of 247 vessels with valid permits to operate in the commercial snapper-grouper fishery landed black sea bass, generating dockside revenues of approximately $1.103 million (2010 dollars). Each vessel, therefore, generated an average of approximately $4,465 in gross revenues from black sea bass. Vessels that operate in the black sea bass segment of the snapper-grouper fishery may also operate in other segments of the snapper-grouper fishery, the revenues of which are not reflected in these totals.

Based on revenue information, all commercial vessels affected by the rule can be considered small entities.

From 2005–2010, an annual average of 1,985 vessels had valid permits to operate in the for-hire sector of the snapper-grouper fishery, of which 85 are estimated to have operated as headboats. The for-hire fleet consists of charterboats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. The charterboat annual average gross revenue (2010 dollars) is estimated to range from approximately $62,000–$84,000 for Florida vessels, $73,000–$89,000 for North Carolina vessels, $68,000–$83,000 for Georgia vessels, and $32,000–$39,000 for South Carolina vessels. For headboats, the corresponding estimates are $170,000–$362,000 for Florida vessels, and $149,000–$317,000 for vessels in the other states.

Based on these average revenue figures, all for-hire operations that would be affected by the rule can be considered small entities.

Some fleet activity, i.e., multiple vessels owned by a single entity, may exist in both the commercial and for-hire snapper-grouper sectors to an unknown extent, and NMFS treats all vessels as independent entities in this analysis.

NMFS expects the final rule to directly affect all federally permitted commercial vessels harvesting black sea bass and for-hire vessels that operate in the South Atlantic snapper-grouper fishery. All directly affected entities have been determined, for the purpose of this analysis, to be small entities. Therefore, NMFS determines that this final rule will affect a substantial number of small entities.

NMFS considers all entities expected to be affected by the rule as small

entities, so the issue of disproportional effects on small versus large entities does not arise in the present case.

Setting the ACL, ABC, and OY equal to one another would provide an economic environment that would allow small entities to maintain or increase their profits by way of maximizing their use of the black sea bass resource.

Establishing a black sea bass pot endorsement program would likely result in profit increases to those who would qualify and profit decreases to those who would not. Out of the 50 to 60 individuals that currently fish for black sea bass using pots, approximately 31 would qualify for the endorsement. Although those who would not qualify could still fish for black sea bass using other gear types, their harvest performance could suffer. Because a limited number of individuals could fish for black sea bass using pots under the endorsement program, the fishing season for the commercial sector would likely remain open longer than it has in the last few years. This could cause overall industry profits to increase or at least remain stable.

Establishing an appeals process for fishermen initially excluded from the black sea bass pot endorsement program would provide opportunities for those qualified to receive their endorsement. Given the narrow basis for appeals, only a limited number of appeals would likely be successful.

Limiting the number of pots per vessel would likely decrease the short-term profits of small entities. The maximum number of 35 pots allowed per vessel is lower than the current average of 45 pots per vessel fished, and would affect about 48 percent of the trips. Vessels that have historically used more than 35 pots per trip would generate lower revenues per trip or higher overall fishing costs to maintain the same overall revenues. However, because the endorsement program would limit the number of participants in the black sea bass pot segment of the snapper-grouper fishery, fishermen who would be adversely affected by the limit on the number of pot tags per vessel could take more trips to recoup their losses. Thus, overall industry profits, which are expected to increase or remain stable under the endorsement program, may remain unaffected by the potential losses to fishermen adversely affected by the limit on pot tags.

Requiring that black sea bass pots be brought back to shore at the conclusion of each trip as a means to reduce bycatch may restrict the fishing operations of some vessels. Its effects on profits are relatively unknown, but NMFS notes that in approximately 65 percent of trips, pots are brought back to shore. If vessels undertake longer trips to allow their pots to fish longer, costs could rise because no restriction exists on the length of each trip. If this practice results in maintaining the same revenues per trip, vessel profits could decrease. If, however, this requirement results in less ghost fishing and less interaction with protected species, future restrictions imposed on the fishery may lessen, such that long-term profits of small entities would remain sustainable.

The recreational AMs, consisting of the in-season harvest and possession restriction if the recreational ACL is met or projected to be met and the post-season reduction in the sector's ACL if the recreational ACL is exceeded in the current year, would likely reduce the short-term profits of for-hire vessels. Similarly, the commercial AMs consisting of the in-season prohibition on the purchase and sale of black sea bass and the post-season reduction in the sector's ACL, would likely result in profit reductions to the commercial vessels. To the extent that this provision allows the rebuilding target to be reached within the rebuilding period, long-term profits to for-hire and commercial fishing operations would increase. In addition, the projected increases in the aggregate (commercial and recreational) ACL under the rebuilding strategy, as long as the prior year's combined ACL is not exceeded, would tend to negate some or all of the adverse profit effects of the post-season AM applied to either the commercial or recreational sector. If either sector, but not both, exceeds its ACL in the current year, that sector's ACL would be reduced the following year. The combined commercial and recreational ACL, and therefore the sector ACLs, would still increase so long as the combined ACL is not exceeded in the prior year.

Establishing a commercial vessel trip limit of 1,000 lb (454 kg), gutted weight [1,180 lb (535 kg), round weight], would tend to adversely affect the catch and revenue per trip of vessels that generally land over this limit. Based on the 2010–2011 fishing season data, this alternative would adversely affect approximately 8.4 percent of trips accounting for a total of about 83,000 lb (37,648 kg), valued at about $203,000. NMFS notes, though, that this trip limit could lengthen the fishing season, allowing opportunities for some vessels to recoup some of their revenue losses for the year. At any rate, NMFS expects that some of these revenue reductions would filter into the bottom line of some vessels and potentially the bottom line of the entire industry. The actual extent of industry profit reduction cannot be estimated based on available information.

Increasing the recreational minimum size limit from 12 inches (30 cm), TL, to 13 inches (33 cm), TL, could reduce the black sea bass harvests of headboats from 20.9 percent to 22.6 percent and black sea bass harvests of other fishing modes (*i.e.* charterboats and private vessels) from 18.8 percent to 20.3 percent. These harvest reductions could lead to trip cancellations because the quality of the fishing experience would decrease. However, these harvest reductions could be recouped through additional trips with a lengthened season. The actual effects on for-hire vessel profits depend on whether there would be trip cancellations, which is uncertain based on available information.

Increasing the commercial size limit from 10 inches (25 cm), TL, to 11 inches (28 cm), TL, could reduce the black sea bass harvests of commercial vessels by slightly over 9 percent. Actual reductions in harvest would partly depend on whether vessels take additional or longer trips to recoup potential harvest losses. Although additional or longer trips would maintain total revenues, either by maintaining the same harvest or by generating more revenue per fish since a bigger black sea bass generally commands a higher price, costs would also increase. The net effects on per vessel and industry profits cannot be determined with available information.

Requiring selected for-hire vessels to report electronically would affect some of the 1,985 vessels with for-hire snapper-grouper permits. This requirement would add costs to these vessels' operations. The incremental costs to selected headboats would not likely be as much as for charterboats because headboats are currently subject to logbook reporting. Charterboats are not currently subject to logbook reporting although NMFS now routinely contacts some charter captains to collect trip level information. The resulting effects to for-hire vessel profits are indeterminable.

Amendment 18A contains other provisions that could eventually have effects on the operations of small entities. First, modifying the rebuilding strategy and setting the ABC for black sea bass would retain the current economic status of small entities for the next 2 years of the rebuilding period. Thereafter, profits to small entities may increase with a shift from a constant catch strategy to a constant fishing mortality strategy that would allow the

ABC to increase over time depending on the results of future stock assessments. Second, as part of modifying the rebuilding strategy, overfishing for black sea bass will be determined on an annual basis using the maximum fishing mortality threshold and the overfishing limit. This provision alone would not affect the profits of small entities. Third, an ACT for the recreational sector would account for management uncertainty in the recreational sector, related in part to the timely accounting of this sector's harvests. Currently, this ACT does not trigger application of AMs, so short-term profits to small entities would remain unaffected. If the Council decides in the future to use the ACT as the trigger for application of AMs, profits to small entities may be adversely affected. However, because this measure is designed to help ensure that the rebuilding strategy stays on track, long-term profitability would be sustainable.

Five alternatives, including the preferred alternative, were considered for modifying the rebuilding strategy and ABC. The preferred alternative has a relatively high probability of rebuilding the stock so that it is more likely to result in ABC increases after the first 2 years. The actual ABC levels after 2 years are currently unknown but would be specified based on future stock assessments. The first alternative, the no action alternative, would maintain the constant catch rebuilding strategy and current ABC throughout the rebuilding timeframe. This alternative has the same probability of rebuilding the stock as the preferred alternative. Because it would maintain the same ABC over time it would likely result in lower economic benefits than the preferred alternative. The second alternative would establish a new constant catch rebuilding strategy with a higher (than current) ABC throughout the remaining years of the rebuilding timeframe. Relative to the preferred alternative, the second alternative would provide for a higher ABC for 2 years and a lower or higher ABC thereafter depending on the results of future stock assessments. Thus, the sum of economic benefits over the rebuilding timeframe under this alternative could be lower or higher than that of the preferred alternative, depending on the preferred alternative's actual ABC level. It may only be noted that, being a constant catch strategy, this alternative would likely lead to the ACL being met sooner as the fish stock rebuilds, resulting in applications of in-season and post-season AMs. The third alternative, with two sub-alternatives, would establish a constant fishing mortality rebuilding strategy throughout the remaining years of the rebuilding timeframe. Under the first sub-alternative, the fishing mortality rate would be 75 percent of the fishing mortality at MSY (75-percent F_{MSY}), and under the second sub-alternative, the fishing mortality rate that would rebuild the stock by 2016 ($F_{REBUILD}$ by 2016). These two sub-alternatives would provide for higher ABCs than the preferred alternative during the first 2 years, and thus, higher economic benefits in the short term. These two sub-alternatives would also result in higher economic benefits in the long term if the preferred alternative's future ABCs were not substantially higher than those of the two sub-alternatives. The fourth alternative would maintain the current constant catch strategy and ABC for the next 2 years of the rebuilding timeframe and switch to a constant fishing mortality strategy at $F_{REBUILD}$ throughout the remainder of the rebuilding timeframe. This alternative would provide for the same ABC as the preferred alternative during the first 2 years, but relates to a lower probability of rebuilding the stock to biomass at MSY. Because this alternative has the same ABCs as the preferred alternative during the first 2 years and adopts a constant fishing mortality rebuilding strategy thereafter, it is possible the two alternatives would result in about the same economic effects over time.

Four alternatives, including the preferred alternative, were considered for modifying the ACL for black sea bass. The first alternative, the no action alternative, would maintain the existing ACL equal to ABC and OY equal to 75 percent of the fishing mortality at MSY. This alternative is more restrictive than the preferred alternative in setting OY as the underlying goal of managing the black sea bass stock. The second alternative would set the ACL equal to 90 percent of the ABC and the latter equal to OY. The third alternative would set the ACL equal to 80 percent of the ABC and the latter equal to OY. These other alternatives would provide for a lower ACL than the preferred alternative, and thus lower economic benefits as well.

Three alternatives, including the preferred alternative, were considered for establishing an endorsement program for the black sea bass pot segment of the snapper-grouper fishery. The first alternative, the no action alternative, would not establish an endorsement program. This alternative would continue to allow anyone with an Unlimited or 225-lb (102-kg) Limited Snapper-Grouper Permit to engage in the black sea bass pot segment of the snapper-grouper fishery. This would increase the likelihood of the derby-style fishing conditions, potentially dampening industry profitability. The second alternative includes seven sub-alternatives, of which one is the preferred sub-alternative that would require minimum landings of 2,500 lb (1,134 kg), round weight, to be eligible to participate in the endorsement program. The first sub-alternative would set the minimum landings at 500 lb (227 kg), round weight; the second sub-alternative, at 1,000 lb (454 kg), round weight; the third sub-alternative, at 2,000 lb (907 kg), round weight; the fourth, at 3,500 lb (1,588 kg), round weight; the fifth, at 5,000 lb (2,268 kg), round weight; and, the sixth, at 10,000 lb (4,536 kg), round weight. These sub-alternatives would allow varying numbers of individuals/entities to qualify for the endorsement: higher landings requirements would result in fewer qualifiers. The Council's choice of preferred alternative was based on the assessment that about 30 individuals/entities can be profitably sustained by the black sea bass pot segment of the snapper-grouper fishery. In this case, sub-alternatives requiring less than 2,500 lb (1,134 kg), round weight, of landings for endorsement eligibility would likely result in unsustainable profits. On the other end, sub-alternatives requiring higher than 2,500 lb (1,134 kg), round weight, of landings would severely restrict participation in the fishery although industry profitability would be more sustainable. In addition, a highly restrictive endorsement qualification criterion, such as 10,000 lb (4,536 kg), round weight, would tend to eliminate small scale operations that have historically characterized the black sea bass pot segment of the snapper-grouper fishery. The third alternative, with two sub-alternatives, would require that no South Atlantic state shall have fewer than two entities qualifying for the endorsement. The first sub-alternative would set a minimum landings requirement of 1,000 lb (454 kg), round weight, and the second, 2,000 lb (907 kg), round weight. This alternative, with the sub-alternatives, was intended to allow participation by all South Atlantic states in the endorsement program. Since the minimum number of qualifiers from each state would be the same under this alternative and the preferred alternative, the Council deemed this third alternative unnecessary.

Three alternatives, including the preferred alternative, were considered

for establishing an appeals process for fishermen initially excluded from the endorsement program. The first alternative, the no action alternative, would not establish an appeals process. This alternative has the potential to unduly penalize participants if they were incorrectly excluded from the endorsement program. The second alternative is the same as the preferred alternative, except that it would establish a special board, composed of state directors and designees, that would review, evaluate, and make individual recommendations to the RA. This alternative would introduce an additional administrative burden that may not improve the appeals process because the only appealable issues are eligibility and landings.

Five alternatives, including the preferred alternative, were considered for limiting effort in the black sea bass pot segment of the snapper-grouper fishery. The first alternative, the no action alternative, would not limit the number of black sea bass pots deployed or pot tags issued to holders of snapper-grouper commercial permits. Among the alternatives, this is potentially the best alternative for efficient operations in the black sea bass pot segment of the snapper-grouper fishery. But with no limit on the number of pots, a high likelihood arises that more pots may be lost and ''ghost fish'' for black sea bass or other species. In addition, the more pots, the more vertical lines are in the water, which increases the probability of interaction with certain protected species. Ghost fishing is likely to hinder the rebuilding of black sea bass or provide less protection to other snapper-grouper species subject to a rebuilding strategy. Both ghost fishing and interactions with protected species could lead to the implementation of more restrictive measures that would impinge on the profits of commercial vessels. The second alternative would limit black sea bass pot tags to 100 per vessel per year; the second alternative, to 50 per vessel per year; and, the third alternative, to 25 per vessel per year. These other alternatives differ from the preferred alternative only in the maximum number of pots deployed or pot tags issued per vessel, with the higher numbers providing better opportunities for higher profits per vessel trip. But as noted above, the higher number of pots, the higher the probability of ghost fishing and interaction with protected species.

Three alternatives, including the preferred alternative, were considered for reducing bycatch in black sea bass pots. The first alternative, the no action alternative, would allow pots to remain in the water until the commercial quota is reached. This alternative would not help reduce bycatch in the black sea bass pot segment of the snapper-grouper fishery. The second alternative would allow fishermen to leave pots in the water for no more than 72 hours. This alternative would have about the same effects as the preferred alternative on pot fishing operations, because most fishing trips for black sea bass using pots last for less than 3 days. However, it would present a higher probability for ghost fishing because pots may be left in the water on short vessel trips or not retrieved during inclement weather.

Three alternatives, including the preferred alternative, were considered for modifying the AMs for black sea bass. The first alternative, the no action alternative, would maintain the current commercial and recreational AMs. The Council concluded that this alternative was not effective in constraining harvest at or below the sector ACLs. The second alternative is similar to the preferred alternative for the recreational sector, except that it would trigger in-season AMs only if the black sea bass stock is overfished. This alternative could lead to larger post-season adjustment of the recreational ACL and thus larger adverse effects on for-hire profits, particularly if the aggregate ACL is exceeded. Moreover, if overages in the recreational harvest lead to exceeding the aggregate ACL, the aggregate ACL would not automatically increase the following year, resulting in adverse effects on both the commercial and recreational sectors.

Nine alternatives, including the preferred alternative, were considered for establishing a commercial trip limit. The first alternative, the no action alternative, would not establish a commercial trip limit. In principle, this alternative would likely provide the most short-term profitability among commercial vessels on a per trip basis, because commercial vessel operations would remain unaffected. However, this alternative could lead to lower industry profitability if harvest rate is not effectively controlled and this results in a shortened fishing season. The second alternative would establish a trip limit of 500 lb (227 kg), gutted weight; the third alternative, 750 lb (340 kg), gutted weight; the fourth alternative, 1,250 lb (567 kg), gutted weight. The fifth alternative would establish a trip limit of 1,000 lb (454 kg), gutted weight, that would be reduced to 500 lb (227 kg), gutted weight, when 75 percent of the commercial ACL is met. The sixth alternative would establish a trip limit of 2,000 lb (907 kg), gutted weight; the seventh, 2,500 lb (1,134 kg), gutted weight; and, the eighth alternative, 250 lb (113 kg), gutted weight. NMFS expects that trip limits lower than the preferred alternative of 1,000 lb (454 kg), gutted weight, would lead to larger adverse effects on per trip profitability and the opposite would occur with higher trip limits. Based on the Council's assessment, the preferred alternative would provide the best balance between per trip losses in profits and higher industry profits from a longer fishing season.

Three alternatives, including two preferred alternatives, were considered for modifying the commercial and recreational minimum size limit. The first alternative, the no action alternative, would not change the commercial or recreational size limit. In principle, this alternative would provide the best economic environment for both the commercial and recreational sectors, because their operations would remain relatively unaffected. However, this alternative would not help in constraining the rate of harvest which has been increasing in recent years, leading to early closures of both the commercial and recreational sectors of the black sea bass segment of the snapper-grouper fishery. The second alternative includes three sub-alternatives for commercial size limits, one of which is the preferred sub-alternative. The second sub-alternative would increase the commercial size limit from 10 inches (25 cm), TL, to 12 inches (30 cm), TL. This sub-alternative would lead to relatively larger adverse effects on the profits of commercial vessels but would also tend to allow a longer fishing season. However, the Council concluded that this sub-alternative would not provide the best balance between short-term profit reductions and profit increases from a longer season. The third sub-alternative would increase the commercial size limit from 10 inches (25 cm), TL, to 11 inches (28 cm), TL, in the first year and to 12 inches (30 cm), TL, thereafter. This sub-alternative would eventually lead to larger adverse effects on the profits of commercial vessels but would also tend to allow a longer fishing season. However, the Council concluded that this sub-alternative would not provide the best balance between short-term profit reductions and profit increases from a longer season.

Four alternatives, including the preferred alternative, were considered for improving for-hire data reporting. The first alternative (the no action alternative) would retain the existing data reporting systems for the for-hire sector. However, the Council concluded that modifications to existing

recreational data collection are necessary to the extent that they would not be too burdensome on for-hire vessel operations. The second alternative would require vessels operating with a Federal for-hire permit to maintain a logbook for discard characteristics (e.g., size and reason for discarding), if selected. This alternative would provide better information regarding discards, but would increase costs for for-hire vessel operations. The third alternative would require that for-hire landings and catch/effort data be submitted in accordance with the Atlantic States Cooperative Statistics Program (ACCSP) standards, using the South Atlantic Fisheries Information System (SAFIS). Although this alternative has the potential to improve recreational data collection, it would be costly to for-hire vessels. Therefore, the Council decided to wait until the new Marine Recreational Information Program (MRIP) has been in place for some time to determine whether it would be sufficient for reporting for-hire landings data.

Four alternatives, including the preferred alternative, were considered for setting the recreational annual catch target (ACT). The first alternative, the no action alternative, would not set a recreational ACT, and thus, would not meet the stated objective. The second alternative would set the recreational ACT equal to 85 percent of the recreational ACL. The third alternative would set the recreational ACT equal to 75 percent of the recreational ACL. NMFS estimates that these two alternatives would result in lower ACTs than the preferred alternative, so that if an ACT triggers management actions, these two alternatives would result in larger adverse effects on the profits of for-hire vessels.

In Amendment 18A, the Council considered several actions for which the no-action alternative was the preferred alternative.

Three alternatives, including the preferred alternative (no action alternative), were considered for setting the commercial ACT. The first alternative would set the commercial ACT equal to 90 percent of the commercial ACL. The second alternative would set the commercial ACT equal to 80 percent of the commercial ACL. Because NMFS closely tracks the commercial landings in-season through a quota monitoring system, the Council concluded that a commercial ACT as a monitoring tool was unnecessary.

Five alternatives, including the preferred alternative (no action alternative), were considered for implementing a spawning season closure. The first alternative would implement a March 1–April 30 spawning season closure; the second alternative, an April 1–May 31 spawning season closure; the third alternative, a March 1–May 31 spawning season closure; and, the fourth alternative, a May 1–May 31 spawning season closure. These alternatives would result in short-term profit reductions to commercial and for-hire vessels. Black sea bass do not form large spawning aggregations and the peak spawning period occurs at different times of the year across the South Atlantic. Therefore, short-term profit reductions could persist in the future as the benefits from a spawning season closure are not well established.

Four alternatives, including the preferred alternative (no action alternative), were considered for improving commercial data reporting. The first alternative would require all vessels with Federal snapper-grouper commercial permits to have an electronic logbook tied to the vessel's Global Position System onboard the vessel. The second alternative would provide the option for fishermen to submit their logbook entries electronically via an electronic version of the logbook made available online. The third alternative would require submission of commercial landings and catch and effort data in accordance with the ACCSP standards, using the SAFIS. These alternatives would introduce additional cost to commercial fishing operations. In the particular case of the second alternative, fishermen would be unlikely to opt for electronic reporting because of its additional cost, thereby rendering the alternative impractical. The Council decided to address this issue in the future through a comprehensive amendment for improving data collection.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as small entity compliance guides. As part of the rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all vessel permit holders in the South Atlantic snapper-grouper fishery.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB) under control numbers 0648–0603 and 0648–0205. Public reporting burden for the for-hire sector of the snapper-grouper fishery to submit logbook information electronically, if selected to do so, is estimated to average 30 minutes per electronic logbook installation and 1 minute per weekly download of the weekly logbook information. Public reporting burden for South Atlantic Unlimited Snapper-Grouper Permit holders to submit their logbook information if they are appealing their landings data for a black sea bass pot endorsement is estimated to average 2 hours per response. Public reporting burden for the requirement to check boxes on the Federal Permit Application Form for a new endorsement or renewal of the black sea bass pot endorsement is estimated to average 1 minute per response. Finally, the public reporting burden for the requirement to check boxes on the Federal Permit Application Form for black sea bass pot tags (Floy tags) for the endorsement program is estimated to average 1 minute per response. These estimates of the public reporting burden include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: May 29, 2012.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.4, paragraph (a)(2)(xv) is added and paragraph (a)(5)(i)(A) is revised to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(xv) *South Atlantic black sea bass pot endorsement.* For a person aboard a vessel, for which a valid commercial vessel permit for South Atlantic snapper-grouper unlimited has been issued, to use a black sea bass pot in the South Atlantic EEZ, a valid South Atlantic black sea bass pot endorsement must have been issued to the vessel and must be on board. A permit or endorsement that has expired is not valid. NMFS will renew this endorsement automatically when renewing the commercial vessel permit for South Atlantic snapper-grouper unlimited associated with the vessel. The RA will not reissue this endorsement if the endorsement or the commercial vessel permit for South Atlantic snapper-grouper unlimited is revoked or if the RA does not receive a complete application for renewal of the commercial vessel permit for South Atlantic snapper-grouper unlimited within 1 year after the permit's expiration date.

(A) *Initial eligibility.* To be eligible for an initial South Atlantic black sea bass pot endorsement, a person must have been issued and must possess a valid or renewable commercial vessel permit for South Atlantic snapper-grouper that has black sea bass landings using black sea bass pot gear averaging at least 2,500 lb (1,134 kg), round weight, annually during the period January 1, 1999 through December 31, 2010. Excluded from this eligibility, are trip-limited permits (South Atlantic snapper-grouper permits that have a 225-lb (102.1-kg) limit of snapper-grouper) and valid or renewable commercial vessel permits for South Atlantic snapper-grouper unlimited that have no reported landings of black sea bass using black sea bass pots from January 1, 2008, through December 31, 2010. NMFS will attribute all applicable black sea bass landings associated with a current snapper-grouper permit for the applicable landings history, including those reported by a person(s) who held the permit prior to the current permit owner, to the current permit owner. Only legal landings reported in compliance with applicable state and Federal regulations are acceptable.

(B) *Initial issuance.* On or about June 1, 2012, the RA will mail each eligible permittee a black sea bass pot endorsement via certified mail, return receipt requested, to the permittee's address of record as listed in NMFS' permit files. An eligible permittee who does not receive an endorsement from the RA, must contact the RA no later than July 1, 2012, to clarify his/her endorsement status. A permittee denied an endorsement based on the RA's initial determination of eligibility and who disagrees with that determination may appeal to the RA.

(C) *Procedure for appealing black sea bass pot endorsement eligibility and/or landings information.* The only items subject to appeal are initial eligibility for a black sea bass pot endorsement based on ownership of a qualifying snapper-grouper permit, the accuracy of the amount of landings, and correct assignment of landings to the permittee. Appeals based on hardship factors will not be considered. Appeals must be submitted to the RA postmarked no later than October 1, 2012, and must contain documentation supporting the basis for the appeal. The RA will review all appeals, render final decisions on the appeals, and advise the appellant of the final NMFS decision.

(*1*) *Eligibility appeals.* NMFS' records of snapper-grouper permits are the sole basis for determining ownership of such permits. A person who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, for example, as a result of ownership changes from individual to corporate or vice versa, must document his/her continuity of ownership.

(*2*) *Landings appeals.* Determinations of appeals regarding landings data for 1999 through 2010 will be based on NMFS' logbook records. If NMFS' logbooks are not available, the RA may use state landings records or data for the period 1999 through 2010 that were submitted in compliance with applicable Federal and state regulations on or before December 31, 2011.

(D) [Reserved]

(E) *Fees.* No fee applies to initial issuance of a black sea bass pot endorsement. NMFS charges a fee for each renewal or replacement of such endorsement and calculates the amount of each fee in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The handbook is available from the RA. The appropriate fee must accompany each application for renewal or replacement.

* * * * *

(5) * * *

(i) * * *

(A) An operator of a vessel that has or is required to have a Commercial Vessel Permit for Rock Shrimp (Carolinas Zone) or a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ).

* * * * *

■ 3. In § 622.5, paragraphs (b)(2)(i) and (ii) are revised to read as follows:

§ 622.5 Recordkeeping and reporting.

* * * * *

(b) * * *

(2) * * *

(i) *Charter vessels.* Completed fishing records required by paragraph (b)(1)(i) of this section for charter vessels must be submitted to the SRD weekly, postmarked not later than 7 days after the end of each week (Sunday). Completed fishing records required by paragraph (b)(1)(ii) of this section for charter vessels may be required weekly or daily, as directed by the SRD. Information to be reported is indicated on the form and its accompanying instructions.

(ii) *Headboats.* Completed fishing records required by paragraph (b)(1)(i) of this section for headboats must be submitted to the SRD monthly and must either be made available to an authorized statistical reporting agent or be postmarked not later than 7 days after the end of each month. Completed fishing records required by paragraph (b)(1)(ii) of this section for headboats may be required weekly or daily, as directed by the SRD. Information to be reported is indicated on the form and its accompanying instructions.

* * * * *

■ 4. In § 622.37, paragraph (e)(3)(i) is revised to read as follows:

§ 622.37 Size limits.

* * * * *

(e) * * *

(3) * * *

(i) *Black seas bass.* (A) For a fish taken by a person subject to the bag limit specified in § 622.39(d)(1)(vii)—13 inches (33 cm), TL.

(B) For a fish taken by a person not subject to the bag limit specified in § 622.39(d)(1)(vii)—11 inches (28 cm), TL.

* * * * *

■ 5. In § 622.40, paragraph (d)(1)(i)(B) is revised and paragraphs (d)(1)(i)(C) and (D) are added to read as follows:

§ 622.40 Limitations on traps and pots.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(B) A sea bass pot must be removed from the water in the South Atlantic EEZ and the vessel must be returned to a dock, berth, beach, seawall, or ramp at the conclusion of each trip. Sea bass pots may remain on the vessel at the conclusion of each trip.

(C) A sea bass pot must be removed from the water in the South Atlantic EEZ when the applicable quota specified in § 622.42(e)(5) is reached. After a closure is in effect, a black sea bass may not be retained by a vessel that has a sea bass pot on board.

(D) A vessel that has on board a valid Federal commercial permit for South Atlantic snapper-grouper and a South Atlantic black sea bass pot endorsement that fishes in the South Atlantic EEZ on a trip with black sea bass pots, may possess only 35 black sea bass pots per vessel per permit year. Each black sea bass pot in the water or onboard a vessel in the South Atlantic EEZ, must have a valid identification tag issued by NMFS attached. NMFS will issue new identification tags each permit year that will replace the tags from the previous permit year.

* * * * *

■ 6. In § 622.42, paragraph (e)(5) is revised to read as follows:

§ 622.42 Quotas.

* * * * *

(e) * * *

(5) *Black sea bass*—309,000 lb (140,160 kg), gutted weight; 364,620 lb (165,389 kg), round weight.

* * * * *

■ 7. In § 622.44, paragraph (c)(8) is added to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(c) * * *

(8) *Black sea bass.* Until the applicable quota specified in § 622.42(e)(5) is reached, 1,000 lb (454 kg), gutted weight; 1,180 lb (535 kg), round weight. See § 622.43(a)(5) for the limitations regarding black sea bass after the applicable quota is reached.

* * * * *

■ 8. In § 622.49, paragraph (b)(5) is revised to read as follows:

§ 622.49 Annual catch limits (ACLs) and accountability measures (AMs).

* * * * *

(b) * * *

(5) *Black sea bass*—(i) *Commercial sector.* (A) If commercial landings, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.42(e)(5), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year.

(B) If commercial landings exceed the quota specified in § 622.42(e)(5), the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the ACL for that following year by the amount of the overage in the prior fishing year, unless the SRD determines that no overage is necessary based on the best scientific information available.

(ii) *Recreational sector.* (A) If recreational landings for black sea bass, as estimated by the SRD, are projected to reach the recreational ACL of 409,000 lb (185,519 kg), gutted weight; 482,620 lb (218,913 kg), round weight; the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year. On and after the effective date of such a notification, the bag and possession limit is zero. This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e. in state or Federal waters.

(B) If recreational landings for black sea bass, as estimated by the SRD, exceed the ACL, the AA will file a notification with the Office of the Federal Register, to reduce the recreational ACL the following fishing year by the amount of the overage in the prior fishing year, unless the SRD determines that no overage is necessary based on the best scientific information available.

* * * * *

[FR Doc. 2012–13342 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No.110722404–1073–02]

RIN 0648–BA56

Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery

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

ACTION: Final rule.

SUMMARY: With this final rule, NMFS implements new Federal American lobster regulations that will limit entry into the lobster trap fishery in Lobster Conservation Management Area 1 (Area 1), located in the Federal inshore waters of the Gulf of Maine. Eligibility will be based on specific eligibility criteria designed to identify active Federal Area 1 lobster trap permits. If a permit meets the eligibility criteria, the permit holder will be authorized to fish in the Federal waters of Area 1 with up to 800 lobster traps. The limited entry program responds to the recommendations for Federal action in the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan for American Lobster (ISFMP, Lobster Plan).

DATES: This final rule is effective July 2, 2012.

Applicability Dates: Applications for Area 1 Lobster trap fishery eligibility are due by November 1, 2012. Eligibility decisions will become effective no earlier than the start of the 2013 Federal lobster fishing year which begins May 1, 2013; however, those who submit an application prior to September 1, 2012, will be assured, to the extent practicable, of a final decision on their eligibility in time for the 2013 Federal lobster fishing year.

ADDRESSES: Copies of the American Lobster Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this regulatory action are available upon written request to Robert Ross, Supervisory Fishery Policy Analyst, Sustainable Fisheries Division, NMFS, 55 Great Republic Drive, Gloucester, MA 01930, telephone (978) 281–9234. The documents also are available online at *http://www.nero.noaa.gov*

You may submit written comments regarding the burden-hour estimates or

other aspects of the collection-of-information requirements contained in this final rule to the mailing address listed above and by email to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Peter Burns, Fishery Policy Analyst, phone (978) 281–9144, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: This action will limit access to the lobster trap fishery in the Federal waters of Area 1 by employing qualification criteria similar to those recommended by the Area 1 Lobster Conservation Management Team (LCMT) and by the Commission's Lobster Board in Addendum XV to Amendment 3 of the Commission's Plan (Addendum XV). Specifically, interested applicants will be required to show proof of the following three criteria: (1) Proof that they possess an active Federal lobster permit; (2) proof that the permit contained an Area 1 trap designation during the 2008 fishing season (May 1, 2008–April 30, 2009); and (3) proof that at least one Area 1 trap tag was purchased under the involved permit during any one of the 2004–2008 fishing years. Interested applicants must apply to NMFS for access on or before November 1, 2012.

Statutory Authority

These regulations will modify Federal lobster fishery management measures in the Exclusive Economic Zone (EEZ) under the authority of section 803(b) of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act) 16 U.S.C 5101 *et seq.,* which states, in the absence of an approved and implemented fishery management plan under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and, after consultation with the appropriate Fishery Management Council(s), the Secretary of Commerce may implement regulations to govern fishing in the EEZ, i.e., from 3 to 200 nautical miles (nm) offshore. The regulations must be (1) compatible with the effective implementation of an ISFMP developed by the Commission and (2) consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act.

Purpose and Need for Management

The purpose of this action is to manage the American lobster fishery in a manner that maximizes resource sustainability, recognizing that Federal management occurs in concert with state management. To achieve this purpose, NMFS needs to respond to recently-approved state management measures that control effort within the lobster fishery. Specifically, the Commission's Lobster Plan seeks to limit entry into the Federal Area 1 lobster trap fishery. Of the seven Lobster Conservation Management Areas (LCMAs, Areas) only Area 1 remains open and accessible to all Federal lobster permit holders under the Commission Plan. Commissioners and Area 1 permit holders alike are concerned that restrictions in these other LCMAs could cause a shift of trap fishing effort into Area 1 from other areas, and a shift of non-trap fishing effort in Area 1 to trap fishing effort, potentially flooding Area 1 with new fishers, upsetting local lobster stock stability, and undermining existing social and cultural lobster fishing traditions in Area 1.

Background

American lobsters are managed within the framework of the Commission. The Commission serves to develop fishery conservation and management strategies for certain coastal species and coordinates the efforts of the states and Federal Government toward concerted sustainable ends. The Commission, under the provisions of the Atlantic Coastal Act, decides upon a management strategy as a collective and then forwards that strategy to the states and Federal Government, along with a recommendation that the states and Federal Government take action (e.g., enact regulations) in furtherance of this strategy. The Federal Government is obligated by statute to support the Commission's ISFMP and overall fishery management efforts (See *Statutory Authority*). Consistent with these requirements, NMFS published this final rule to cap and control lobster trap fishing effort in Area 1 in support of the Commission's ISFMP.

Area 1, the most productive lobster management area with respect to landings, is within the Gulf of Maine stock area. The most recent lobster stock assessment (2009) indicated that Gulf of Maine lobster stock abundance is relatively high, with stable levels of fishing mortality. Despite favorable conditions, the stock assessment cautioned that unchecked trap fishing effort in Area 1 could negatively impact the sustainability of the Gulf of Maine lobster fishery if lobster abundance declined to long-term median levels.

At this same time, lobster managers and Area 1 lobster fishers became aware that trap fishing effort in Area 1 was indeed relatively unchecked. Some fishers provided anecdotal evidence that Area 1 Federal waters fishing effort might be on the increase. Specifically, the Area 1 LCMT, an advisory group composed of lobster fishermen, worried that limited access programs in the other lobster management areas might cause, and perhaps were already causing, non-qualifiers to move their businesses into Area 1—the only remaining non-limited access area. They were also concerned that restrictions in other fisheries may lead permit holders who fish for lobster with non-trap gear to convert to trap fishing in Area 1. The Area 1 LCMT recommended that the Commission limit access to the trap fishery in Area 1 Federal waters to those fishers who could document having fished there with trap gear in the past. The Area 1 LCMT worried that speculators will newly declare into Area 1 upon hearing the news and, therefore, the LCMT recommended establishing an immediate control date after which fishing history could not be credited towards qualification.

The Commission agreed with the scientists and LCMT that a potential shift of trap fishing effort into Area 1 could jeopardize the sustainability of the Gulf of Maine lobster stock and Area 1 fishery and, consequently, the Commission's Lobster Board began to develop, in 2008, Addendum XV to Amendment 3 of the ISFMP. Addendum XV and Amendment 3 are available at the Commission's Web site at *http://www.asmfc.org.* Addendum XV intends to control lobster trap fishing effort by limiting the transfer of Federal lobster permits into Area 1 from other areas and from the non-trap fishery.

As the Commission developed Addendum XV in October 2008, they asked NMFS to immediately publish a control date to prevent speculators from moving into Area 1. On January 2, 2009, NMFS published an Advance Notice of Proposed Rulemaking (ANPR) in the **Federal Register** (74 FR 67) to notify the public that any further investment in the Area 1 trap fishery may not guarantee future access if a limited entry program is implemented and to solicit public comments on the issue (see Comments and Responses). Knowing that Federal action will be needed to restrict the movement of Federal lobster permits into Area 1, the Commission adopted the publication date of the ANPR (January 2, 2009) as a control date for determination of Area 1 eligibility.

The Commission approved Addendum XV in November 2009 after receiving public input in numerous public meetings. In Addendum XV, the Commission recommended an Area 1

limited access program with the following three eligibility criteria: (1) Possession of a Federal limited access lobster permit; (2) proof of an Area 1 designation on the Federal lobster permit as of the January 2, 2009, control date; and (3) proof of purchase of an Area 1 lobster trap tag during any year from 2004–2008, inclusive. Addendum XV did not recommend making any change to the trap cap in Area 1, currently set at 800 traps.

Description of the Public Process

The actions set forth in this final rule have undergone extensive and open public notice, debate, and discussion both at the Commission and Federal levels.

1. Commission Public Process

Typically, this public discussion of a potential Federal lobster action begins within the Commission process. Specifically, the Commission's Lobster Board often charges its Plan Development Team or Plan Review Team—sub-committees of the Lobster Board—to investigate whether the existing ISFMP needs to be revised or amended to address a problem or need, often as identified in a lobster stock assessment. The Plan Review and Plan Development Teams are typically comprised of personnel from state and Federal agencies knowledgeable in scientific data, stock and fishery condition, and fishery management issues. If a team or teams conclude that management action is warranted, it will so advise the Lobster Board, which would then likely charge the LCMTs to develop a plan to address the problem or need. The LCMTs—most often comprised of industry representatives—will conduct a number of meetings open to the public wherein they will develop a plan or strategy, i.e., remedial measures, in response to the Lobster Board's request. The LCMTs then vote on the plan and report the results of their vote back to the Lobster Board. Minutes of the LCMT public meetings can be found at the Commission's Web site at *http://www.asmfc.org* under the ''Minutes & Meetings Summary'' page in the American lobster sub-category of the Interstate Fishery Management heading.

After receiving an LCMT proposal, the Commission's Lobster Board will often attempt to seek specialized comment from both the Lobster Technical Committee and Lobster Advisory Panel before the proposal is formally brought before the Board. The Technical Committee is comprised of specialists, often scientists, whose role is to provide the Lobster Board with specific technical or scientific information. The Advisory Panel is a committee of individuals with particular knowledge and experience in the fishery, whose role is to provide the Lobster Board with comment and advice. Minutes of the Technical Committee and Advisory Panel meetings can be found at the Commission's Web site at *http://www.asmfc.org* under the ''Minutes & Meetings Summary'' page in the American lobster sub-category of the Interstate Fishery Management heading.

After receiving sub-committee advice, the Lobster Board debates the proposed measures in an open forum whenever the Board convenes (usually four times per year, one time in each of the spring, summer, fall, and winter seasons). Meeting transcripts of the Lobster Board can be found at the Commission's Web site at *http://www.asmfc.org* under ''Board Proceedings'' on the ''Minutes & Meetings Summary'' page in the American lobster sub-category of the Interstate Fishery Management heading. These meetings are typically scheduled months in advance and the public is invited to comment at every Board meeting. In the circumstance of an addendum, the Board will vote on potential measures to include in a draft addendum. Upon approving a draft addendum, the Lobster Board will conduct further public hearings on that draft addendum for any state that so requests. After conducting the public hearings, the Lobster Board will again convene to discuss the public comments, new information, and/or whatever additional matters are relevant. After the debate, which may or may not involve multiple Lobster Board meetings, additional public comment and/or requests for further input from the LCMTs, Technical Committee and Advisory Panel, the Lobster Board will vote to adopt the draft addendum, and if applicable, request that the Federal Government implement compatible regulations.

The need for the Federal action, in this case, is based on concerns by the Area 1 lobster trap industry and the Commission, that unchecked lobster trap fishing effort in Area 1 could result in a migration of Federal lobster permits into Area 1. Additionally, there was concern expressed by the Area 1 LCMT and the Commission that lobster fishermen with Federal non-trap gear permits may opt to transition into the lobster trap fishery due to management restrictions in other Federal fisheries, such as the groundfish fishery. Although the number of Federal lobster trap permits in Area 1 has remained stable over the past decade, potential for effort shift exists. Area 1 was, until the publication of this rule, the only lobster management area in the Commission's Lobster Plan that was open to all lobster permits for lobster trap fishing. As other areas become restricted, those permits that do not qualify for trap fishing can be purchased and relocated to Area 1. Further, the most recent stock assessment in 2009 indicated that although the Gulf of Maine lobster stock was in favorable condition, increases in fishing effort could de-stabilize the fishery.

The Area 1 LCMT held several public meetings in Maine and New Hampshire during 2007 and 2008 to discuss the issue and to develop eligibility criteria. Their proposal was forwarded to the Commission's Lobster Board as the basis of Addendum XV. Addendum XV was the topic of several public meetings prior to its approval by the Commission in 2009.

2. Federal Public Process

Since the transfer of Federal lobster management in December 1999 from the Magnuson-Stevens Act, with its Federal Fishery Management Councils, to the Atlantic Coastal Act, with the Commission, Federal lobster action has typically been undertaken in response to a Commission action.

The development of this current rulemaking began in 2008 as the Commission's Lobster Management Board began discussing measures to cap lobster trap fishing effort in Area 1 through the development of Addendum XV. The Commission recommended that NMFS publish a control date for potential use as a cut-off date in determining continued eligibility for Federal lobster permits in Area 1. Consequently, NMFS published an Advance Notice of Proposed Rulemaking (ANPR) in the **Federal Register** on January 2, 2009. The ANPR notified the public that NMFS was considering a limited entry program for the Area 1 lobster trap fishery and that the ANPR publication date could be used as a control date for that purpose. The Commission adopted the ANPR publication date as a control date in Addendum XV along with other eligibility criteria for use in determining Federal permits that are considered active trap permits. Addendum XV recommended that NMFS take action to cap the number of Federal lobster trap permits in Area 1 using methods which are compatible with those set forth in Addendum XV.

NMFS published a proposed rule on November 18, 2011 (76 FR 71501). In the proposed rule NMFS recommended liberalizing the eligibility period to the entire 2008 fishing year (May 1, 2008–April 30, 2009). We received numerous

public comments in response to the proposed rule, some of which supported liberalizing the criterion (including the state agencies and Commission), and none of which opposed the liberalization. Comments and responses to the proposed rule are set forth later in this final rule (see Comments and Responses).

NMFS prepared a draft Environmental Assessment (EA) in support of its proposed rule. The draft EA analyzed a status quo alternative; an alternative that employed the Commission's Addendum XV eligibility criteria, including the January 2, 2009, control date; and a third alternative which liberalized the eligibility period to include the entire 2008 fishing year (May 1, 2008 to April 30, 2009), rather than the shorter period offered under the Commission's criteria. The draft EA was made available to the public in November 2011 when the proposed rule was published.

Final Rule

This final rule adopts the qualification measures identified in the proposed rule. At the time of the proposed rule, the draft EA (now final) showed that 1,643 Federal lobster permits will likely qualify under this action. Of this total, approximately 32 qualifiers would benefit from the extension of the qualification cut-off date to the entire 2008 fishing year. Our analysis suggests that these 32 individuals do not represent new effort (the majority of these individuals have fished with traps in Area 1 in the past) and the relative additional effort from these 32 permits holders is negligible when compared to the overall level of trap fishing effort in Area 1. According to the draft and final EA, of the 3,152 Federal lobster permits in existence, 1,509 permit holders will likely not qualify into the Area 1 trap fishery (calculated at 3,152 total permit holders minus the 1,643 permit holders expected to qualify). Of this 1,509 total, the vast majority (1,419 permit holders) are from locales south of Area 1 waters and/or have never sought to fish with traps in Area 1 in the past.

As previously stated in the proposed rule, this final rule requires that all qualification applications must be submitted by November 1, 2012. Late applications will not be considered. In order to more speedily process applications, NMFS encourages that applicants not wait until fall 2012 to apply. As such, NMFS seeks to alert potential applicants that the agency will be able to render decisions before the close of the 2012 calendar year on all applications submitted on or before September 1, 2012.

To further assist in the application process, NMFS will attempt to exempt permit holders from having to gather and submit documentary proof of their qualification criteria if NMFS already has the proof in its databases. NMFS expects that it already possesses proof of the qualification criteria in its databases for the majority of expected applicants. In such cases, NMFS will notify potential applicants that they need only apply for access, but that they do not need to submit proof of the qualification criteria along with the application. In some circumstances, however, NMFS does not already possess proof that the applicant meets the qualification criteria. In these situations, potential applicants will be required to provide such proof themselves along with their application. The regulatory text of this final rule contains more information on the type of documentary proof required. All Federal lobster permit holders will maintain the opportunity to elect Area 1 for trap gear on their 2012 Federal fisheries permit while NMFS is receiving and processing applications. The 2012 Federal fishing year began on May 1, 2012. All those who elect Area 1 on the 2012 Federal fisheries permit will be able to fish with traps in Area 1 for the entire 2012 fishing year, even if their application for continued access to the Area 1 lobster trap fishery is denied before the end of the 2012 fishing year. In other words, NMFS's Area 1 trap eligibility decisions will not become effective until the 2013 Federal fishing year, on May 1, 2013. For the 2013 Federal fishing year, those whose applications are approved will be able to elect Area 1 for trap gear on their Federal lobster permit and fish in the Federal waters of Area 1 with traps. Those whose applications for Area 1 eligibility are denied will not be eligible to elect Area 1 for trap gear on their 2013 Federal fisheries permit and may no longer fish with traps in the Federal waters of Area 1; however, they will maintain their Federal limited access lobster permits and may fish for lobster in Federal waters, including the Federal waters of Area 1, with non-trap gear. Individuals who have been denied access, but who have appealed, may be allowed to use trap gear in Area 1 during the pendency of the appeal subject to the discretionary approval of the Regional Administrator. This appeals process is set forth in detail in the Regulatory Text of this final rule. If an application is still under initial review when the permit renewal period begins for the 2013 fishing year (permit applications are normally sent out in February or March in advance of the new fishing year start date of May 1), the permit holder may be authorized to designate Area 1 for trap gear on the 2013 Federal fisheries permit while the application is under review.

Comments and Responses

The proposed rule solicited public comments through January 3, 2012. During the comment period, NMFS received comments from 18 persons and entities, which are broken down as follows: One from the Commission; three from the states of Massachusetts, New Hampshire, and Maine; two from Area 1 lobstermen's associations (Massachusetts Lobstermen's Association and Maine Lobstermen's Association); two from private stakeholder groups (the Humane Society of the United States and the New Jersey Council of Diving Clubs); six from Area 1 fishermen; and four from private citizens. Of that total, 11 comments supported the proposed rule; 3 comments were neither in support or opposition of the Area 1 Limited Entry Program; and 4 opposed the Area 1 Limited Entry Program. Some persons and entities made multiple comments in a single response. The specific comments and our responses are as follows.

Comment 1: Eleven individuals and entities—including the Commission, state governments, Lobstermen's Associations, and three Area 1 lobstermen—supported the Area 1 limited entry program proposal set forth in the proposed rule.

Response: NMFS agrees that the proposed rule, now final, will provide the best means of capping trap fishing effort in the Federal waters of Area 1 and that it is well designed to prevent trap fishing effort from increasing in the Federal waters of Area 1. The final rule is substantially identical to the lobster industry's proposal and Commission recommendations set forth in Addendum XV and will allow NMFS to act in such a way that not only satisfies Federal statutory mandates, but that also allows NMFS to support the Commission's ISFMP for American lobster in a coordinated fashion.

Comment 2: An Area 1 fisherman supported the proposal for an Area 1 Limited Entry Program in the Federal waters of Area 1 due to the increased regulations in other lobster management areas (such as Area 2 and the Outer Cape Cod Lobster Management Areas) and because of increased regulations in other fisheries (such as new regulations, including sector management in the groundfish fishery). As a result, there

exists great potential and incentive for trap fishing effort to be re-directed into Area 1.

Response: NMFS agrees and notes that this potential scenario for trap effort shift into Area 1 provided the genesis for industry's Area 1 proposal in Commission Addendum XV. NMFS analyzed this potential threat in its EA and agrees that the potential for effort shift is real and that it could potentially flood the Area 1 trap fishery with new fishers, therein upsetting local lobster stock and fishery stability, and undermining existing social and cultural lobster fishing traditions. This issue is discussed in more detail in the Purpose and Need for Management section and Background section of this final rule.

Comment 3: One respondent supported the proposed rule's Area 1 Limited Entry Program, but also recommended increasing the legal size limit for lobsters and reducing the standard trap allocation for each vessel from 800 traps to 600 traps to prevent overfishing.

Response: NMFS is implementing the Area 1 limited entry program as described in this final rule. NMFS is not implementing lobster size and trap reductions in this rule. Lobster size limitations and trap restrictions currently exist in Area 1 and remain a management tool that could be modified in the future if scientists, stakeholders, and managers believe it appropriate. At present, however, such limitations and restrictions are not within the scope of this final rule.

Comment 4: The Maine Department of Marine Resources, while strongly supporting the Area 1 limited entry program as set forth in the proposed rule, recommended that we make the eligibility decisions early enough to simplify the issuance of 2013 lobster trap tags by the State.

Response: The final rule timeline attempts to allow for good coordination between the states and the Federal Government. In response to Maine's recommendation, we adjusted our program to offer an incentive to lobster permit holders to apply early to allow more eligibility review time and improve the chances of finalizing all the eligibility determinations prior to the start of the 2013, fishing year. As such, permit holders who submit an application prior to September 1, 2012, will be given priority review, with the intent of providing them with a final eligibility decision, to the extent practicable, in time for the 2013, fishing year which begins on May 1, 2013.

The application timeline should allow NMFS to make most application decisions in time to coordinate with Maine and other involved states before the states' fishing year begin in earnest. This final rule will allow applicants to apply for entry into the Area 1 trap fishery almost immediately upon the publication of this rule and subsequent solicitation of applications by NMFS. Although permit holders will have until November 1, 2012, to apply, NMFS is offering an incentive to permit holders who apply on or before September 1, 2012—namely, that the agency will make every effort to make a decision on that permit holder's application in 2012 if the application is received on or before September 1, 2012. Accordingly, NMFS expects that most Area 1 application decisions will be made before January 1, 2013. In addition, because the results of NMFS's application decisions will not take effect until May 1, 2013 (the start of the Federal fishing year), and because January, February, and March are the least active lobster fishing months, NMFS anticipates having sufficient time, prior to the start of the fishing season and the Federal fishing year, to coordinate with the states over the qualification results.

Comment 5: One state agency suggests that NMFS utilize the relevant data on-hand to make a determination on each permit's Area 1 eligibility and then simply notify permit holders and inform them as to whether or not they are qualified to fish with traps in the Federal waters of Area 1. A different state agency expressed concern that automatic qualification would qualify permits that have since left the Area 1 trap fishery and thus create incentive for effort shift back into Area 1.

Response: While NMFS does not intend to automatically qualify permit holders, the final rule authorizes the Regional Administrator, at his or her discretion, to waive documentary obligations for certain elements of the qualification criteria for an applicant if NMFS itself has clear and credible evidence that will satisfy that qualification criteria for the applicant, as explicitly stated in the regulatory text in this final rule.

Nevertheless, this final rule requires potential applicants to affirmatively apply for entry. In choosing this application procedure, NMFS seeks a balance. Although there would be no burden to the permit holder were NMFS to automatically determine the eligibility of each permit, NMFS does not think it overly burdensome for otherwise qualified permit holders to fill out the one-page application form by checking the appropriate box, signing the application, and mailing it to NMFS. NMFS is reluctant to automatically qualify permit holders into the Area 1 trap fishery because some of those qualifiers might have no interest in fishing in Area 1. NMFS is aware that there are some permits with qualified history that, for whatever reason, are either inactive or have been sold out of the Area 1 trap fishery. Automatically qualifying permits that are no longer in the Area 1 trap fishery and have no interest in fishing in Area 1 will increase latent effort by allowing the automatic re-introduction of effort into the fishery that may have migrated elsewhere, which does not advance the overall spirit of the Lobster Plan's Area 1 Limited Entry Program. As a result, the final rule application procedure requires some effort, albeit minimal, for an otherwise qualified applicant, but advances the overall objectives of the Area 1 Limited Entry Program better than if NMFS were to automatically qualify individuals.

Comment 6: An Area 1 fisherman commented on whether he will be able to buy a Federal lobster permit after 2012; and if a person bought a permit in 2011, will they be able to use it after 2012?

Response: The final rule limits Area 1 trap fishing access to permits that have a certain history of Area 1 trap fishing. Any Federal lobster permit holder who wishes to fish for lobster with traps in Area 1 beginning May 1, 2013, must submit an application under this program prior to November 1, 2012, and be deemed eligible for future participation in the Area 1 lobster trap fishery. If the purchased permit's fishing history meets the criteria set forth in this final rule, then it would qualify and an individual would be able use it to fish with traps in the Federal waters of Area 1 on May 1, 2013, when the rule takes effect. If the purchased permit's history does not meet the rule's criteria, then a person would not be able to use it to fish with traps in Area 1 as of May 1, 2013. Such a permit, however, would still authorize lobster fishing in Area 1 without traps. Finally, the rule does not regulate, much less restrict, the purchase, sale, or transfer of those permits.

Comment 7: The Humane Society stated that the Area 1 800-trap limit may lead to excessive vertical lines in the water that pose a threat to endangered large whales. This commentator suggests that NMFS coordinate internally with its Protected Resources Division to reduce traps and thus further reduce vertical lines in the water.

Response: NMFS staff has coordinated internally regularly throughout this

rulemaking process. Although reducing vertical lines is not the purpose of this final rule and is beyond its scope, NMFS is and has been very much aware of the Protected Resources Division's efforts in this regard, and NMFS's EA suggests that the Area 1 limited entry program will have some ancillary, albeit unquantifiable, benefits to whales, threatened, and endangered species.

Comment 8: The New Jersey Council of Diving Clubs recommended that the Area 1 Limited Entry Program should pertain to commercial fishermen and not divers who are recreational fishermen. Further, the respondent commented that unless the Area 1 lobster population shows a decline, then a limited entry program should not be put in place due to economic complications and unfairness. Finally, the respondent commented that the potential effort restrictions on the southern New England stock should apply only to Area 2 (nearshore EEZ from southern Massachusetts to Rhode Island), and Area 6 (Long Island Sound), because those are the only areas that have shown a decline due to environmental conditions.

Response: The final rule applies to all Federal lobster permit holders who fish with traps. As such, it is not anticipated to impact divers and it in no way suggests, as the respondent was concerned, that trap fishing is the only allowable way to catch lobster. The rule itself was originated from the Area 1 lobster trap fishing industry specifically because they did not want to wait until they were in the midst of decline before protecting their fishery. The genesis and rationale of the rule are discussed in greater detail in the Supplementary Information section of this final rule. The southern New England lobster stock problem is the subject of ongoing deliberation and development of mitigation measures by the Commission and is beyond the scope of this present rulemaking.

Comment 9: One respondent opposes the Area 1 limited entry program in the Federal waters of Area 1 on grounds that it may limit the environmental, economic, and social significance of lobster in Maine. The respondent commented that the impact on small quantity lobster catchers could have a big impact on small businesses in the area and recommends that the fishery remain unregulated and trap levels increased.

Response: It is for those very reasons—i.e., the environmental, economic, and social significance of lobster in Maine—that the Area 1 trap lobster fishery requested that the Commission, and thereafter NMFS, cap trap fishing effort and implement this final rule. Specifically, many members of the Area 1 lobster trap fishery became concerned that restrictions in other fisheries (e.g., restrictions in other lobster management areas and restrictions in other commercial fisheries, like groundfish) might squeeze new trap effort into Area 1. This new trap fishing effort could have the potential to upset local lobster stock stability, and undermine existing social and cultural traditions. NMFS analyzed the final rule's potential impact on small businesses and concluded that the rule would not have a significant impact, largely because this rule is expected to maintain the existing economic structure of the fishery. In other words, those who fished for lobster with traps in Area 1 in the past are expected to qualify to fish for lobsters with traps in the future. These economic impacts are discussed in greater detail in this final rule in the section entitled ''Economic Impacts of the Proposed Rule on Small Entities.'' NMFS disagrees with the respondent's statement that the fishery is unregulated—with or without this rule, the lobster fishery is and would remain highly regulated. In fact, lobster has been regulated for well over a century—regulations prohibiting the harvest of egg-bearing lobsters (similar to present regulations) date back to 1872. The respondent gives no reason in support of her suggestion to increase trap levels, which would, in any case, be beyond the scope of this particular rule.

Comment 10: One lobsterman stated that the economy is not good and that the proposed rule could impact local economies by putting people out of business.

Response: NMFS has taken a hard look at the LCMT's and Lobster Board's recommended criteria and concluded that its economic impacts should be minimal. As a preliminary matter, NMFS analysis suggests that the number of permits actively fishing with traps in Area 1 has remained relatively static from 2000 to 2010, including during the 2008 Federal fishing year, which is one of the criteria. As such, the analysis confirms that the LCMT and Lobster Board criteria did not focus on an anomalous year or capture aberrant data in its proposal. Accordingly, although there may be a few individual instances where a specific permit was active one year but not the next, the data suggests that most of the Area 1 permit holders who fished with traps in the recent past will likely qualify under the final rule criteria. Further, NMFS analysis of its Confirmation of Permit History (CPH) database (where inactive permits can be stored) suggests that no permits existed in CPH during the 2008 fishing year that were otherwise active in the Area 1 trap fishing immediately before and after that year. In other words, permits with Area 1 trap fishing history existed in CPH in 2008, but those permits were inactive for longer periods of time than that 1 year (e.g., they went into CPH before 2008 and/or still remain in CPH, or were taken out of CPH after 2008). A more detailed analysis is set forth in NMFS EA for this action, as well as the section entitled ''Economic Impacts of the Final Rule on Small Entities.''

Comment 11: One lobsterman stated that the notification of the proposed rule was not widespread. A different lobsterman counters that the Area 1 limited entry proposal was well known, publicly debated, and ''* * * should not be news to anyone.''

Response: The Commission's Area 1 limited entry program, including the control date, was the subject of much public debate both before and after January 2, 2009. As a preliminary matter, the Area 1 LCMT, which is made up of lobstermen from Maine, New Hampshire, and Massachusetts (including representatives from the Maine Lobstermen's Association, New Hampshire lobster industry, and Massachusetts Lobstermen's Association), initially proposed the idea of a limited access program with a control date. More specifically, the industry-based Area 1 LCMT had numerous public meetings and discussions on the issue and ultimately voted on and approved the concept in the summer of 2008. Next, the LCMT forwarded their proposal to the Commission's Lobster Board. The Lobster Board is made up of three members from each of the involved states, including a state's director of marine fisheries, as well as an appointee of the state governor, and a member of the state legislature, all of whom are politically accountable to the respondent. In October 2008, after public discussion at the Lobster Board's public meeting, the Board voted to recommend the use of a control date suggested by the LCMT. The vote was unanimous and included all members of the respondent's state delegation. Media coverage of the Lobster Board's approval appeared in the Commercial Fisheries News in November 2008. NMFS published notice of the control date in the **Federal Register** on January 2, 2009. The Area 1 LCMT and the Commission's Lobster Board continued to conduct public meetings on the issue after the January 2009 control date publication. Ultimately, the Lobster Board adopted the Area 1 limited access plan at a

public meeting on November 3, 2009, which was also reported in the media. Public comments on the specific dates and criteria used were sought and received throughout this time period. The final rule, in fact, liberalizes the control date cut-off used in this rule based upon information that it has received during this time period in consideration of those permit holders who did not renew their 2008 Federal lobster permits prior to the control date.

Comment 12: One lobsterman commented that while the proposed rule accomplishes its objectives in preventing trawl vessels and non-Area 1 trap fishers from fishing with traps in Area 1, it ''changes course'' and over-reaches its objectives by also restricting latent (inactive) permits with Area 1 fishing history.

Response: Activation of latent effort is and has always been a concern of the LCMTs, Lobster Board and NMFS, not only in Area 1, but in the lobster fishery in general. Latent effort is potential effort. It is effort that was dormant at the time in question (regardless of whether it was active some time beforehand) but that could become active in the future. Although latency is fluid, constantly changing, and impossible to precisely calculate given existing data, industry and managers alike know it exists and that latency may represent a relatively high percentage of existing permits in certain management areas in any one year. Accordingly, even if draggers and non-Area 1 trap permits were restricted, effort in Area 1 could still increase precipitously simply by activation of this latent effort. The LCMT and Lobster Board decided that increased trap effort is a threat regardless of its origin, i.e., be it from draggers or non-Area 1 permits or latent Area 1 permits. See response to Comment 9 for additional detail on the effort shift threat. In choosing its criteria, the Area 1 LCMT and Lobster Board attempted to address this threat by recommending that effort be capped, not at past levels, nor at future levels, but at current levels as it actively existed in 2008 when the decision was made. NMFS liberalizes these criteria somewhat by extending the proposed January 2, 2009, control date to April 30, 2009, but NMFS nevertheless understands the rationale behind the LCMT and Lobster Board recommendation and finds it reasonable.

Comment 13: One lobsterman from Maine commented that he knew of individuals that recently purchased Federal Area 1 permits that might have been latent (inactive) during the time-period set forth in this final rule's criteria, and that it is unfair for these individuals to have wasted their money purchasing a permit without knowing that a new regulation might render the permits ''worthless.''

Response: NMFS has reviewed and analyzed the recommended criteria and has concluded that it is reasonable and rationally related to the objectives it seeks. In short, the LCMT and Lobster Board sought to cap effort at existing levels, with the term ''existing'' meaning permits that were active in 2008. NMFS even liberalized the criteria in an attempt to accommodate permit holders who were in the midst of permit transactions when the control date ANPR was published in the **Federal Register** in January 2009. Nevertheless, the possibility of this rule was well known, or should have been well known, to all permit holders years before NMFS published its proposed rule. Lobster regulations have existed in the commentator's home state for well over 100 years and it remains amongst the most highly regulated of all fisheries. The final rule's criteria were developed by local lobster fishers, including lobstermen from Maine, and approved unanimously in public meetings by the Commission's Lobster Board including politically-appointed, and thus accountable, members of the commentator's state delegation. For additional public notice information, see response to Comment 10.

Unfortunately for the commentator, rules by their very nature draw lines that include some and exclude others. That is, in fact, the very purpose of this rule—to include trap fishing effort that was active in 2008 and to exclude trap fishing effort that was not. While NMFS expects that some applicants will not qualify for trap fishing access, NMFS's analysis suggests that very few permit holders will be impacted and none impacted in a way that has not been previously considered. Non-qualified permits will not be worthless; they simply will not allow trap fishing in the Federal waters of Area 1. All other attributes of the permit—including lobster fishing in Area 1 without traps—will remain.

Comment 14: The New Hampshire Department of Fish and Game commented that some New Hampshire lobstermen have purchased ''state-only'' tags, even though they were authorized to fish in Federal waters, and were concerned that New Hampshire's administrative process might unintentionally prevent its lobstermen from qualifying.

Response: In an effort to avoid duplication, NMFS and several lobster fishing states agreed that trap fishers with dual state and Federal permits did not need to have both state trap tags and Federal trap tags on the same trap. Depending on the circumstances, the lobsterman could get his trap tags from his state or from NMFS and either entity would recognize and accept a trap tag from the other. The specifics of these agreements are set forth in various Memoranda of Agreements (MOA) between NMFS and the states. Given that differing entities (i.e., the various state and Federal governments) issue trap tags, NMFS is aware that the issued trap tags, although quite similar, are not identical in the information they convey. Accordingly, NMFS is not surprised to learn that a state might issue trap tags to a dual state/federal permit holder under its MOA with NMFS, yet have those trap tags contain little Federal information. NMFS does not intend this present rule to elevate form over substance and NMFS would not deny access to an otherwise qualified Federal Area 1 trap fishers based upon the circumstances described in this comment.

Comment 15: One person commented that he was confused about the purpose of this action and, if the intent is to reduce the number of lobsters taken from Area 1, then limiting the number of fishermen will not be effective.

Response: The intent of this final rule is not to limit the number of lobster taken out of Area 1. The intent is to maintain the sustainability of the Area 1 lobster stock and fishery by preventing the migration of trap fishing effort from other areas and other gear types into Area 1. We assert that capping effort at recent levels, as recommended by the Area 1 lobster industry and the Commission, will effectively control effort in the fishery by maintaining the economic structure in the fishery while continuing to allow opportunities for others to purchase existing Area 1 trap permits. This action does not strive to reduce the lobster harvest in Area 1. The most recent assessment of the Gulf of Maine lobster stock, conducted in 2009, indicates that the stock, overall, is in favorable condition. However, the assessment cautioned that uncontrolled access into the trap fishery could lead to an increase in trap fishing effort which could be detrimental to the long-term sustainability of the stock. It was that advice, and the potential for migration of permits into Area 1 from other areas and other fisheries due to a lack of controls on the number of Federal trap permits in Area 1, that initiated action by the industry and the Commission to recommend a limited entry program for the Area 1 trap fishery.

Comment 16: One Area 1 lobsterman from Maine who supports the proposal, recommends that an apprenticeship program be established for the Federal fishery to facilitate participation by those who are responsible stewards of the resource.

Response: Most, if not all Federal permit holders hold some type of state lobster license, either a fishing or landing license. The majority of Area 1 Federal permit holders reside in Maine and are subject to the apprenticeship requirements and other regulations that control entry into the fishery. Since Federal lobster permits are issued to vessels and not people, an apprenticeship program would be difficult to implement, especially because the permit holder is not necessarily the operator of the permitted vessel. We contend that the state-implemented controls on fishermen, including the apprenticeship program in Maine, are sufficient to instill a level of responsible stewardship among lobstermen. This concept is outside the scope of this action and is best addressed at the state level.

Changes From the Proposed Rule

There are no changes in substance from the proposed rule. There are, however, four minor changes to the text of the final rule where clarifying language was added. In § 697.4(a)(7)(vi), the words ''after April 30, 2013,'' and ''or have an open pending application to fish in the area'' were added to clarify that if an application was still under initial review the applicant would be able to designate Area 1 for trap gear on their Federal fisheries permit application for the 2013 fishing year.

In § 697.4(a)(7)(vi), the words ''the Federal waters of'' were added to make clear in the regulatory text that the limited access program relates only to the Federal waters of Area 1. In § 697.4(a)(7)(vi)(A)(3), the term ''Area 1'' was added to make it clear that trap tag criterion related specifically to an Area 1 trap tag and not a trap tag from a different area. In § 697.4(a)(7)(vi)(B)(3), the term ''Area 1'' was added to make it clear that the documentary proof requires evidence of a trap tag from Area 1. None of these additions are changes in substance—the Background section of the proposed rule makes clear that the program relates to the Federal waters of Area 1 and that the trap tag criterion relates to the purchase of an ''Area 1 lobster trap tag during any year from 2004–2008.'' The additions were simply added for the purpose of clarity.

Changes to Existing Regulations

This final rule enacts regulations that will require any Federal lobster permit holder who wishes to maintain access to the lobster trap fishery in the Federal waters of Area 1, to submit an application to NMFS by November 1, 2012. Each applicant must meet the eligibility requirements to retain the ability to fish with up to 800 lobster traps in Area 1 beyond the 2012 Federal fishing year. Those eligibility requirements are provided under **SUPPLEMENTARY INFORMATION** and are fully discussed throughout this final rule.

Those permits that meet the eligibility requirements will be issued an Area 1 lobster trap permit for the 2013 Federal fishing year which begins on May 1, 2013. Those that do not meet the requirements will maintain a limited access Federal lobster permit, but the permit will no longer be eligible to fish with trap gear in the Federal waters of Area 1.

This final rule also provides the opportunity for a permit holder whose application for Area 1 trap fishery access is denied to appeal the decision. The process for this provision is detailed in the Regulatory Text of this final rule.

Classification

This proposed rule has been determined to be consistent with the provisions of the Atlantic Coastal Act, the National Standards of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration and public comment. Paragraphs (A) and (B) of section 803(b)(1) of the Atlantic Coastal Act authorize the Secretary of Commerce to issue regulations in the EEZ that are compatible with the effective implementation of an Interstate Fishery Management Plan developed by the Commission and consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act.

This final rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

This final rule does not contain policies with federalism implications as defined in E.O. 13132. These measures are based upon the lobster ISFMP that was created by and is overseen by the states. These measures are a result of Addendum XV, which was approved by the states, recommended by the states through the Commission for Federal adoption, and is in place at the state level. Consequently, NMFS has consulted with the states in the creation of the ISFMP, which makes recommendations for Federal action. Additionally, this final rule will not pre-empt state law and will do nothing to directly regulate the states.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This final rule contains a collection of information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). A PRA analysis, including a revised Form 83i and supporting statement have been reviewed and approved by OMB under control number 0648–0642. The PRA analysis evaluates the burden on Federal lobster permit holders and the Federal Government resulting from the Area 1 application and appeals process.

There are two types of applicants evaluated in the PRA analysis as summarized here—those for whom NMFS already has sufficient documentary information to satisfy the proof required and thus will need only to sign and remit an application form, and those for whom NMFS does not presently have sufficient documentary information and thus will need to remit an application form along with documentation to support the qualification criteria. For those permit holders in the former category, NMFS will notify the approximately 1,643 permit holders for whom there is sufficient evidence to show that the permit will qualify for Area 1 access, should the permit holder decide to return a pre-printed letter with his/her signature. The estimated burden for each of these applicants is 2 minutes, and the cost is estimated at $0.74 to mail the letter. NMFS expects all such permit holders to submit an application, with a total burden of 54.8 hours (hr) and $1,216 to the permit holders.

The remaining 1,509 permit holders, those whose permits for which NMFS does not have pre-existing documentary evidence, will be sent a letter indicating that insufficient information is on-hand to qualify the permit. NMFS estimates that 288 of the 1,509 permit holders for which NMFS does not have pre-existing documentary evidence, will apply for Area 1 trap fishery access. These 288 permit holders represent the 224 whose permits had an Area 1 trap gear designation during the 2008 fishing year, but did not have a record of purchasing a trap tag between 2004–2008. The additional 64 permit holders are the estimated 5 percent of the 1,285 Federal lobster permit holders who did not have either an Area 1 designation in 2008 or a trap tag purchase record, but whom may submit an application

anyway. The burden is estimated at 22 minutes for each applicant considering the time estimated to locate documents to support the qualification criteria and sign the application. The estimated cost per applicant is $1.14. The cumulative cost for this category of applicants is 105.6 hr and $328. NMFS hypothesizes that roughly 28 applicants who are denied might appeal. The estimated appeals burden on each appellant is 30 minutes and $4.22. The cumulative burden for all appellants is 14 hr and $118. Overall, the total program burden on the combined number of affected Federal permit holders is calculated at 174 hr and $1,662.

Burden on the Federal Government to implement the program includes the labor and material costs of communicating with the applicants, reviewing and making a determination on the applications, and processing appeals. The total burden of the program on the Federal Government is 941 hr of labor, calculated to cost $26,815. Material costs to the Federal Government include those for paper, envelopes, postage and other supplies associated with mailings, processing the applications, and appeals. When the estimated material costs of $3,678 are considered, the overall total costs to the Federal Government to implement this program are estimated at $30,493.

The proposed rule for this action solicited public comments on the burden estimates of this action. In response, a state fisheries agency suggested that NMFS utilize the relevant data on-hand to make a determination on each permit's Area 1 eligibility and then simply notify permit holders and inform them as to whether or not they are qualified to fish with traps in the Federal waters of Area 1. In contrast, a different state agency expressed concern that automatic qualification would qualify permits that have since left the Area 1 trap fishery and thus create incentive for effort shift back into Area 1. This issue was addressed in response to Comment 5 in the Comments and Responses.

We considered this issue and seek a balance. This rule will require all permit holders to submit an application to avoid automatically qualifying permits that may no longer be involved in the Area 1 trap fishery, but may qualify. To automatically qualify, such permits would increase latent effort in the Area 1 trap fishery and compromise the intent of this effort control program. Although we will require all permit holders to actively apply, we acknowledge that we have the information on-hand to qualify the vast majority of eligible Area 1 trap permits. Consequently, we will minimize the burden by informing those permit holders that we have sufficient information to qualify their permit and they need only sign and remit the application form requesting that their permit be considered for eligibility for the Area 1 trap fishery. Those permits holders for whom we do not have sufficient information available to make the determination on their permit will be requested to remit documentation in support of the eligibility criteria. This approach requires a limited level of burden on otherwise qualified permit holders without undermining the effort control intent of this action.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

NMFS prepared a Final Regulatory Flexibility Analysis (FRFA) as required by section 603 of the Regulatory Flexibility Act (RFA). The FRFA describes the economic impact this final rule will have on small entities. Copies of the FRFA, RIR, and the EA prepared for this action are available from the Northeast Regional Office (see **ADDRESSES**). A description of the action, the reason for consideration, and its legal basis are contained under **SUPPLEMENTARY INFORMATION**.

This final rule will affect small entities engaged in several different aspects of the lobster fishery. The affected entities include Federal lobster trap and non-trap permit holders and this rule will limit future participation in the Area 1 lobster trap fishery to historical participants that meet the eligibility requirements as described under **SUPPLEMENTARY INFORMATION** section.

Summary of the Significant Issues Raised by the Public Comments

None of the public comments received in response to the proposed rule raised any significant issues, meaning that nothing new was presented that caused NMFS to change course with respect to the policy and regulations to implement a limited entry program for the Area 1 lobster trap fishery. Of the 18 comments received in response to the proposed rule, the majority, or 11 comments, fully supported the proposed rule; 3 comments neither supported nor opposed the Area 1 limited entry program; while 4 opposed the Area 1 limited entry program. A summary of the comments received as well as detailed responses to each comment are provided under Comments and Responses.

Although not significant in relation to this final rule, the content of some comment submissions raised issues that afforded us the opportunity to more fully analyze the impacts of this action on certain entities to assure that our initial impact analysis, prepared in support of the proposed rule, was accurate and comprehensive. Additionally, we made non-regulatory and esoteric changes to this program's application submission process to allow for a more timely review and decision-making period to the benefit of affected permit holders, state agencies, and NMFS.

First, comments from state agencies recommended that we attempt to make all eligibility decisions prior to the start of the 2013 state lobster fishing year, which begins January 1, 2013. The intent of this request was to assure that the states had the appropriate information to indicate whether a permit was qualified for Area 1 trap fishing to simplify the authorization for the permit holder to purchase 2013 lobster trap tags. Under agreements with certain states, NMFS allows Federal permit holders to purchase lobster trap tags annually from their home state. The regulations set forth in this rule, consistent with those in the proposed rule, allow permit holders to apply for Area 1 eligibility until November 1, 2012. However, we are alerting the public in this final rule that we will be accepting applications as early as 30 days after the date of this final rule and that those who choose to apply early, that is by September 1, 2012, will be assured, to the extent practicable, of a final decision for the 2013 Federal fishing year, which begins on May 1, 2013. This change was only programmatic in nature and is not linked to the regulatory text of this final rule. Although we expect to have all decisions made by the end of the 2012 calendar year as requested by the states, the revised process provides an incentive to the permit holder to apply early and will give us more time to review and make decisions on each application. See Comments and Responses for additional information.

Additionally, we received a comment outside of the comment period that questioned the impact to Federal permits which were in Confirmation of Permit History (CPH) status during the 2008 Federal fishing year—the critical period during which a permit must have had an Area 1 trap gear designation in order to qualify. Since this is one of the eligibility criteria, a permit that was in

CPH status during the entire 2008 Federal fishing year would not qualify because it was inactive during that critical year. This comment prompted us to explore this issue in more depth. Our subsequent analysis revealed that this situation would not result in a significant group of otherwise active Area 1 permit holders who would not qualify while their permit was in CPH due to a temporary absence from the fishery.

This issue is explained in detail under *Federal Lobster Permits in Confirmation of Permit History* in Description and Estimate of the Number of Small Entities to Which the Final Rule Applies under **SUPPLEMENTARY INFORMATION.**

Description and Estimate of the Number of Small Entities To Which the Final Rule Applies

This final rule will limit entry to the Area 1 lobster trap fishery for any small entity engaged in the harvesting of lobsters that hold a Federal limited access lobster permit. During fishing year 2008 there were a total of 3,152 such permitted vessels. Note that fishing year 2008 permit data were used in the assessment of economic impacts in the EA. A review of fishing year 2009 and fishing year 2010 permit application data found that there was no change in either gear (trap/non-trap) or LCMA designations for more than 98 percent of all valid permits issued during fishing year 2008, fishing year 2009, and fishing year 2010. For this reason, fishing year 2008 permit data are considered reasonably representative of fishing year 2009 and fishing year 2010 permit status and are used herein for purposes of analysis.

Under current regulations any fishing business may fish for lobsters with trap gear in Area 1 provided it has been issued a valid limited access lobster permit, it designates Area 1 as part of the annual permit renewal process, and it purchases Area 1 trap tags. However, of the 3,152 limited access permit holders, 1,867 permits elected to fish using trap gear in Area 1 on their permit while the remainder either elected to fish for lobster with non-trap gear or did not designate Area 1 on their 2008 permit application. Thus, while the option to fish in Area 1 with trap gear sometime in the future will be curtailed for about 40 percent of limited access lobster permit holders, this final rule will have a more immediate impact on permitted vessels that may already be participating in the Area 1 trap fishery. Note that this action will only limit entry to the Area 1 lobster trap fishery. Any Federal limited access lobster vessel that may not qualify will still be able to fish for lobster in Area 1 using non-trap gear.

The small business size standard for businesses engaged in a commercial fishing activity is $4 million in gross sales. The number of regulated entities most likely to be affected by this action is expected to be 1,867 limited access permit holders who designated Area 1 on their 2008 permit application. The number of these entities that may be above or below the Small Business Administration (SBA) size standard is indeterminate. Unlike most other federally managed fisheries, the lobster fishery is not subject to mandatory reporting. This means that gross sales for entities that possess only a Federal limited access lobster permit, which is the case for a majority of permitted vessels, particularly in Area 1, cannot be reliably determined. For purposes of further analysis, all 1,867 regulated entities are considered small entities.

NMFS evaluated three management alternatives prior to moving forward with the preferred alternative set forth in this final rule. One alternative, the status quo alternative, would make no changes to the Federal lobster regulations and would continue to allow any Federal lobster permit to gain access into the Area 1 lobster trap fishery. This alternative provides the greatest potential for trap fishing effort to proliferate in Area 1. The status quo alternative was not selected because it was counter to the recommendations of the Commission and the Area 1 lobster industry, as well as the scientists of the Commission's Lobster Technical Committee who cautioned that unchecked lobster trap fishing effort could jeopardize the sustainability of the Gulf of Maine lobster stock and the Area 1 lobster fishery.

A second management alternative we analyzed was the Commission's alternative. This alternative would have implemented changes to the Federal lobster regulations to limit access into the Area 1 lobster trap fishery by employing the eligibility criteria adopted by the Commission in Addendum XV. The only difference between the Commission's alternative and the preferred alternative established in this final rule is that the Commission's alternative adopted a January 2, 2009, control date which is the date that NMFS published the ANPR in the **Federal Register** (74 FR 67) to notify the public that an Area 1 trap fishery limited entry program was under consideration. Consequently, Area 1 trap fishery eligibility under the Commission's alternative would require that a permit had an Area 1 trap tag purchase during any year from 2004–2008 and that the permit was active for the 2008 fishing year with an Area 1 designation prior to January 2, 2009. January 2, 2009, falls in the middle of the 2008 fishing year and would not effectively capture all Area 1 Federal lobster permits that were active during that fishing year.

In contrast, the final rule will qualify any Federal permit holder that designated Area 1 on their 2008 permit application at any time during the 2008 fishing year (May 1, 2008 to April 30, 2009), and had a record of purchasing Area 1 trap tags in any year during 2004–2008. The qualification criterion regarding the date when the 2008 permit application had to be received is less restrictive than the January 2, 2009, control date recommended by the Commission. An additional 32 permit holders would likely qualify under this adopted alternative as opposed to the Commission's alternative. These 32 permits, however, do not represent new or additional effort, and is such a small number that it would likely have no measurable impact on the species. The Commission, states and industry groups support this alternative as following the spirit and intent of their recommendation. As such, the final rule will be less burdensome for regulated small entities than the Commission's alternative, because it provides an opportunity for more affected entities to qualify for limited access to the Area 1 trap fishery, while remaining consistent with the Commission's intent to cap the number of Federal lobster trap permits in Area 1 at 2008 levels.

Based on the qualification criteria, 1,643 (88 percent) of the 1,867 potentially affected small entities will qualify for the Area 1 trap fishery. Note that the Commission's alternative would have qualified 32 fewer regulated small entities. The 224 potential non-qualifiers—calculated by taking the 1,867 permit holders that designated Area 1 in 2008 and subtracting the 1,643 expected qualifiers—are permit holders for which NMFS has no record of having purchased Area 1 trap tags in any year from 2004 to 2008. Further analysis of these non-qualifiers suggest that the majority had selected non-trap as a gear type during 2008, or had selected other LCMA's in addition to Area 1, or based their fishing operation in states that do not border the Gulf of Maine. NMFS asserts that these potential non-qualifiers likely elected Area 1 on their permit out of speculation, not because they were fishing there. Specifically, 49 of the 224 non-qualifiers listed a homeport state of Rhode Island, New York, New Jersey, Virginia, North Carolina, or other state.

Of the 175 non-qualifiers from Maine, Massachusetts, or New Hampshire, 106 selected non-trap gear on their permit and 55 had elected to use trap gear in an LCMA other than Area 1. Thus, available data suggest that 92 percent of the non-qualifiers may not be economically affected by this rule because they are not engaged in the Area 1 trap fishery. The potential economic impact on the remaining 14 non-qualifiers is uncertain. These non-qualifiers did not select non-trap gear, nor did they select a trap area alternative to Area 1. Given the absence of any indication of trap fishing in Area 1, these 14 vessels may not be actively fishing for lobster at all.

This final rule will not implement any regulatory measures that will affect the manner in which qualifiers prosecute the Area 1 trap fishery and will not, therefore, have any direct economic impact on qualifying entities. As noted above, the majority of non-qualifiers that listed Area 1 are most likely using non-trap gear to fish for lobster, or are engaged in a lobster trap fishery in other LCMAs. The direct economic impact on these non-qualifying vessels is likely to be negligible in terms of their gross sales or profitability. However, these non-qualifiers, as well as the 1,285 permit holders that did not elect Area 1 on their 2008 permit (most of which did not select Area 1 in other years since), may suffer some economic loss in terms of the value of their fishing vessel. That is, the value of a fishing vessel depends on the condition of the physical asset itself, its fishing history, and the suite of limited access permits (i.e., an open access permit conveys no added value since there is no scarcity) that are attached to the vessel.

To the extent that limited access fishing permits may themselves be considered assets, any change in the rights or conditions affecting the current or future use of the permit affects its asset value. Limiting access to the Area 1 trap fishery will restrict the future use of a limited access lobster permit for non-qualifiers, hence some diminution of the contribution of the lobster permit to the value of the fishing business may occur. Notably, the permit value of Area 1 qualifiers may increase, since these permits will retain the access rights that will no longer be available to non-qualifiers. The magnitude of any such changes in permit value to either non-qualifiers or qualifiers is highly uncertain. There certainly is no indication or available data to suggest that the final rule will have anything other than a small, if any, impact on permit values.

Federal Lobster Permits in Confirmation of Permit History

If a Federal lobster permit was in CPH status during the entire 2008 fishing year, then it was inactive and the permit holder was not fishing under the permit. Consequently, the permit will not have an Area 1 designation for that year, will fail to satisfy that criterion, and would be considered ineligible for future participation in the Federal Area 1 lobster trap fishery.

To better understand the consequences of this rule and its potential impact on individuals who may have been active permit holders immediately before and/or after 2008, we conducted a review of all permits in CPH status during the 2008 fishing year. Specifically, we identified 34 Federal lobster permits that were inactive (in CPH status) during much of 2008, but that might have been active immediately before or after. Our investigation revealed that the vast majority of these permits never fished in Area 1 because they were associated with vessels from southern New England and points south and show a history of fishing in more southerly lobster management areas, or they had a history of fishing with mobile gear and not traps.

We focused our attention on 12 of the 34 permits that had a previous Area 1 trap gear designation and were taken out of CPH after the 2008 fishing year. We were interested in this group of permits because they represent a category of permit holders that may be most impacted the eligibility criterion that requires a 2008 Area 1 designation. Of these 12 permits, only one purchased trap tags during the required 2004–2008 period (in 2005 only). Since this permit did not have an Area 1 designation in 2008, it would not qualify. Nevertheless, it is not the type of permit that this rule (and the Commission and LCMT) strives to qualify, since the permit has not been an active Area 1 trap permit since 2005.

Overall, we found that our criterion requiring that a permit have an Area 1 trap gear designation during the 2008 fishing year did not create a significant group of non-qualifying permit holders, particularly those whose permits were in CPH status during that year. A more detailed analysis of this issue is provided in the EA.

Impacts to Federal Lobster Permit Holders With Federal Multispecies Permits

To address industry concerns that catch limitations under the multispecies sector management program may prompt traditional multispecies fishermen to re-direct their efforts into the lobster trap fishery, we analyzed the potential impact of the proposed action on multispecies vessels that also hold Federal lobster permits. The sector management program implemented by Amendment 16 to the Northeast Multispecies Fishery Management Plan allows federally permitted multispecies (groundfish) vessels to form cooperative groups called sectors. Within each sector, the participating vessels combine their respective historical groundfish quotas, allowing them the flexibility to share and manage the cumulative quota of their sector. Those Federal multispecies vessels that do not participate in a sector may harvest groundfish on an individual basis, but must adhere to trip-based catch limits and days-at-sea. This component of the fleet is known as the common pool.

As part of this analysis, we analyzed the potential impacts of the proposed action on the dual lobster and multispecies vessels that participate in the common pool and will not qualify for the Area 1 trap fishery. We considered that these vessels may be most susceptible to restrictions in the multispecies fishery and may be most inclined to pursue the directed lobster trap fishery. Common pool vessels make up about half of the groundfish fleet, but share less than 10 percent of the overall groundfish quota for all species combined.

Of the 967 vessels that have both a Federal lobster and multispecies permit, 758 will probably not qualify for the Area 1 trap fishery under the proposed action. Of these, 51 permits are in the common pool category and hail from Area 1 ports. This final rule will prohibit these permit holders from transitioning into the Area 1 lobster trap fishery if restrictions on groundfishing, particularly those impacts on the more vulnerable common pool vessels, necessitate a change in fishing operations from groundfishing to the lobster trap fishery. On balance, we contend that this will result only in indirect negative impacts on these common pool fishers, since they do not have a previous history of fishing with traps, they had not previously taken advantage of the long-standing opportunity to transition into the Area 1 trap fishery, and refitting their vessels for trap fishing may be cost-prohibitive. Furthermore, restricting these non-historical participants from the Area 1 trap fishery is consistent with the Commission's recommendations in Addendum XV to cap effort at recent (2004–2008) levels.

In contrast to the number of dual multispecies and lobster permits that will not qualify for the Area 1 trap

fishery under the proposed action, 209 vessels with both a Federal lobster and multispecies permit will qualify. Compared to the Commission's Alternative, five more Federal lobster permits with a multispecies permit will qualify under the final rule's criteria—two from Massachusetts and three from Maine. All five are in the common pool and hail from Gulf of Maine ports, thus the final rule decreases the number of affected common pool participants hailing from the Gulf of Maine ports, since the extension of the eligibility period will allow these vessels to qualify for the Area 1 trap fishery.

Description of Steps the Agency Has Taken To Minimize the Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

We took several steps to minimize the economic impact of this action on small entities. First, we extended the permit qualification period four months beyond the control date to consider all Federal lobster permits that elected Area 1 for trap gear on their 2008 Federal lobster permit, as discussed under the Final Rule section of this document. Ultimately, this will allow about 32 additional active Area 1 trap permits to qualify without compromising the effort control intentions of the Commission's plan. Second, we have set forth an application process that reduces the burden on the vast majority of Federal Area 1 lobster permit holders for whom NMFS already has sufficient information on hand to qualify the permit for the Area 1 trap fishery. This issue is described in more detail in the Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements section. Third, we will allow all Federal lobster permit holders to fish with traps in Area 1 for the remainder of the 2012 Federal fishing year while the application review process is underway to avoid short-term disruptions in current fishing practices. Finally, those permit holders who choose to apply early, that is by September 1, 2012, will be assured, to the extent practicable, of a final decision for the 2013 Federal fishing year, which begins on May 1, 2013. This issue is discussed in more detail under the Summary of Significant Issues Raised by the Public Comments section.

List of Subjects in 50 CFR Part 697

Fisheries, Fishing.

Dated: May 29, 2012.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 697 is amended as follows:

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

■ 1. The authority citation for part 697 continues to read as follows:

Authority: 16 U.S.C. 5101 *et seq.*

■ 2. In § 697.4, redesignate paragraphs (a)(7)(vi) through (a)(7)(x) to paragraphs (a)(7)(vii) through (a)(7)(xi), revise paragraph (a)(7)(ii), and add a new paragraph (a)(7)(vi) to read as follows:

§ 697.4 Vessel permits and trap tags.

(a) * * *

(7) * * *

(ii) Each owner of a fishing vessel that fishes with traps capable of catching lobster must declare to NMFS in his/her annual application for permit renewal which management areas, as described in § 697.18, the vessel will fish in for lobster with trap gear during that fishing season. The ability to declare into Lobster Conservation Management Areas 1, 3, 4 and/or 5, however, will be first contingent upon a one-time initial qualification, as set forth in paragraphs (a)(7)(vi) through (a)(7)(ix) of this section.

* * * * *

(vi) *Participation requirements for EEZ Nearshore Management Area 1.* To fish for lobster with traps in the Federal waters of Area 1 after April 30, 2013, a Federal lobster permit holder must initially qualify into the area, or have an open pending application to fish in the area. To qualify, the permit holder seeking initial qualification must satisfy the following requirements in an application to the Regional Administrator:

(A) *Qualification criteria.* To initially qualify into Area 1, the applicant must establish with documenting proof the following:

(*1*) That the applicant has a valid and current Federal lobster permit as of the date of the application; and

(*2*) That the involved Federal lobster permit had an Area 1 trap designation at some time during the 2008 fishing year, which was May 1, 2008, through April 30, 2009; and

(*3*) That at least one Area 1 trap tag was purchased to fish with traps under the involved Federal lobster permit in any one fishing year from 2004 to 2008.

(B) *Documentary proof.* To satisfy the Area 1 Initial Qualification and Trap Allocation Criteria set forth in paragraph (a)(7)(vi)(A) of this section, the applicants will be limited to the following documentary proof:

(*1*) As proof of a valid Federal lobster permit, the applicant must provide a copy of the vessel's current Federal lobster permit. The potential qualifier may, in lieu of providing a copy, provide NMFS with such data that will allow NMFS to identify the Federal lobster permit in its database, which will at a minimum include: The applicant's name and address; vessel name; and permit number.

(*2*) As proof of the lobster permit's 2008 Area 1 trap designation, the applicant must provide a copy of the vessel's Federal lobster permit for the 2008 fishing year. The potential qualifier may, in lieu of providing a copy, provide NMFS with such data that will allow NMFS to identify the Federal lobster permit in its database, which will at a minimum include: The applicant's name and address; vessel name; and permit number.

(*3*) As proof of Area 1 trap tag purchases in any one fishing year from 2004 to 2008, the applicant must provide documentation from those years, either from the trap tag vendor supplying the tags or from the state or Federal government agency, affirming the purchase of the tags from the vendor.

(*4*) The Regional Administrator may, at his or her discretion, waive documentary obligations for certain elements of the qualification criteria for an applicant if NMFS itself has clear and credible evidence that will satisfy that qualification criteria for the applicant.

(C) *Application period.* Federal lobster permit holders seeking entry into the Area 1 trap fishery must apply for qualification by November 1, 2012. Failure to apply for Area 1 access by that date shall be considered a waiver of any future claim for trap fishery access into Area 1.

(D) *Appeal of denial of permit.* Any applicant having first applied for initial qualification into the Area 1 trap fishery pursuant to paragraph (a)(7)(vi) of this section, but having been denied access, may appeal to the Regional Administrator within 45 days of the date indicated on the notice of denial. Any such appeal must be in writing.

(*1*) *Grounds for appeal:* The sole grounds for administrative appeal shall be that NMFS erred clerically in concluding that the vessel did not meet the criteria in paragraph (a)(7)(vi) of this section. Errors arising from oversight or

omission such as ministerial, mathematical, or typographical mistakes will form the basis of such an appeal. Alleged errors in substance or judgment do not form a sufficient basis of appeal under this paragraph. The appeal must set forth the basis for the applicant's belief that the Regional Administrator's decision was made in error. If the appealing applicant does not clearly and convincingly prove that an error occurred, the appeal must be denied.

(*2*) *Appellate timing and review.* All appeals must be in writing and must be submitted to the Regional Administrator postmarked no later than 45 days after the date on NMFS's Notice of Denial of Initial Qualification application. Failure to register an appeal within 45 days of the date of the Notice of Denial will preclude any further appeal. The appellant may notify the Regional Administrator of his or her intent to appeal within the 45 days and request a time extension to procure the necessary documentation. Time extensions shall be limited to 30 days and shall be calculated as extending 30 days beyond the initial 45-day period that begins on the original date on the Notice of Denial. Appeals submitted beyond the deadlines stated herein will not be accepted. Upon receipt of a complete written appeal with supporting documentation in the time frame allowable, the Regional Administrator will then appoint an appeals officer who will review the appellate documentation. After completing a review of the appeal, the appeals officer will make findings and a recommendation, which shall be advisory only, to the Regional Administrator, who shall make the final agency decision whether to qualify the applicant.

(*3*) *Status of vessels pending appeal.* The Regional Administrator may authorize a vessel to fish with traps in Area 1 during an appeal. The Regional Administrator may do so by issuing a letter authorizing the appellant to fish up to 800 traps in Area 1 during the pendency of the appeal. The Regional Administrator's letter must be present onboard the vessel while it is engaged in such fishing in order for the vessel to be authorized to fish. If the appeal is ultimately denied, the Regional Administrator's letter authorizing fishing during the appeal will become invalid 5 days after receipt of the notice of appellate denial or 15 days after the date on the notice of appellate denial, whichever occurs first.

* * * * *

[FR Doc. 2012–13352 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 106
Friday, June 1, 2012

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.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

10 CFR Part 1703

Proposed FOIA Fee Schedule Update

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations, the Defense Nuclear Facilities Safety Board is publishing its proposed Freedom of Information Act (FOIA) Fee Schedule Update and solicits comments from interested organizations and individual members of the public.

DATES: To be considered, comments must be mailed or delivered to the address listed below by 5:00 p.m. on or before July 2, 2012.

ADDRESSES: Comments on the proposed fee schedule should be mailed or delivered to the Office of the General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004. All comments will be placed in the Board's public files and will be available for inspection between 8:30 a.m. and 4:30 p.m., Monday through Friday (except on federal holidays), in the Board's Public Reading Room at the same address.

FOR FURTHER INFORMATION CONTACT: Brian Grosner, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (202) 694–7060.

SUPPLEMENTARY INFORMATION: The FOIA requires each Federal agency covered by the Act to specify a schedule of fees applicable to processing of requests for agency records. 5 U.S.C. 552(a)(4)(i). Pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations, the Board's General Manager will update the FOIA Fee Schedule once every 12 months. Previous Fee Schedule Updates were published in the **Federal Register** and went into effect, most recently, on July 12, 2010, 75 FR 39629. The Board's proposed fee schedule is consistent with the guidance. The components of the proposed fees (hourly charges for search and review and charges for copies of requested documents) are based upon the Board's specific cost.

Board Action

Accordingly, the Board proposes to establish the following schedule of updated fees for services performed in response to FOIA requests:

DEFENSE NUCLEAR FACILITIES SAFETY BOARD SCHEDULE OF FEES FOR FOIA SERVICES

[Implementing 10 CFR 1703.107(b)(6)]

Search or Review Charge	$82.00 per hour.
Copy Charge (paper)	$.12 per page, if done in-house, or generally available commercial rate (approximately $.10 per page).
Electronic Media	$5.00.
Copy Charge (audio cassette)	$3.00 per cassette.
Duplication of DVD	$25.00 for each individual DVD; $16.50 for each additional individual DVD.
Copy Charge for large documents (e.g., maps, diagrams)	Actual commercial rates.

Dated: May 23, 2011.

Brian Grosner,

General Manager.

[FR Doc. 2012–13295 Filed 5–31–12; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0547; Directorate Identifier 2009–NM–234–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

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

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for all The Boeing Company Model 757 airplanes. That NPRM proposed to require a detailed inspection of the inboard and outboard main slat track downstop assemblies and a torque application to the main track downstop assembly nuts of slat numbers 1 through 10, excluding the outboard track of slats 1 and 10; a detailed inspection of all slat track housings for foreign object debris (FOD) and visible damage; and corrective actions if necessary. That NPRM was prompted by reports of fuel leaking from the front spar of the wing through the slat track housing. This action revises that NPRM by adding inspection results reporting. We are proposing this supplemental NPRM to detect and correct incorrectly installed main slat track downstop assemblies, which, when the slat is retracted, could cause a puncture in the slat track housing and lead to a fuel leak and potential fire. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this supplemental NPRM by July 16, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; email: *me.boecom@boeing.com;* Internet: *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *Nancy.Marsh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2010–0547; Directorate Identifier 2009–NM–234–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We issued an NPRM to amend 14 CFR part 39 to include an AD that would apply to all The Boeing Company Model 757 airplanes. That NPRM published in the **Federal Register** on June 3, 2010 (75 FR 31327). That NPRM proposed to require a detailed inspection of the inboard and outboard main slat track downstop assemblies and a torque application to the main track downstop assembly nuts of slat numbers 1 through 10, excluding the outboard track of slats 1 and 10; a detailed inspection of all slat track housings for FOD and visible damage; and corrective actions if necessary.

Actions Since Previous NPRM (75 FR 31327, June 3, 2010) Was Issued

Since we issued the previous NPRM (75 FR 31327, June 3, 2010), we have determined that the service information referenced in the NPRM, Boeing Special Attention Service Bulletin 757–57–0068, dated September 15, 2009, contains inspections for certain part numbers that do not exist and errors in certain figures.

Relevant Service Information

We have reviewed Boeing Special Attention Bulletin 757–57–0068, Revision 1, dated July 19, 2011. This service information clarifies certain part numbers, downstop assembly components, and torquing requirements for downstop fasteners; and adds an option to replace the slat can instead of repairing it. This service information also corrects the part numbers to be inspected and corrects the errors found in Boeing Special Attention Service Bulletin 757–57–0068, dated September 15, 2009.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Comments

We gave the public the opportunity to comment on the previous NPRM (75 FR 31327, June 3, 2010). The following presents the comments received on the NPRM and the FAA's response to each comment.

Agreement With the Intent of the NPRM (75 FR 31327, June 3, 2010)

American Airlines (American) stated that, in general, it agrees with the intent of the previous NPRM (75 FR 31327, June 3, 2010).

Concurrence With the Proposed Inspection and Follow-On Actions

Continental Airlines (Continental) stated that it concurs with the proposed inspection and follow-on actions.

Requests To Clarify Reporting Results

Boeing, Delta Air Lines (Delta), and FedEx requested that we clarify if reporting the inspection results is required. Boeing stated that the reporting request is not shown in paragraph (h) of the NPRM (75 FR 31327, June 3, 2010). Delta stated that reporting for this subject does not add safety to the rule.

Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, specifies reporting and includes an appendix for reporting the inspection results. The extent of FOD, visible damage, and missing parts is not known. Inspection reports will help determine the extent of the safety issue in the affected fleet. Based on the results of these reports, we will determine if further rulemaking is warranted. Therefore, we have added new paragraph (i) in this supplemental NPRM (SNPRM) to require operators to report the inspection results.

Request To Make the Inspection Repetitive

American stated that a repetitive inspection program and/or airplane maintenance manual (AMM) revision may be necessary to prevent the unsafe condition. American justified its request by stating that the hardware may be changed using the AMM after the one-time inspection, and that maintenance could result in a loose torque to the downstop assembly nut.

We disagree with revising this SNPRM to incorporate additional inspections or AMM revisions at this time. The SNPRM proposes a one-time inspection, and reporting. If we receive reports of discrepancies in the downstop hardware or of FOD in the slat cans, we may consider additional rulemaking to address the unsafe condition. If operators are doing maintenance on the slat track downstop hardware using the AMMs, they should follow the instructions in the AMM and correctly torque the nut. The torque values in the AMM are the same as those in Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011. Boeing is not

aware of any errors in the AMMs. Boeing has also added cautionary notes to the pertinent sections of the AMM advising the operators to correctly torque the nut, and to ensure that no FOD has dropped in to the slat can. We have not changed the SNPRM in this regard.

Request To Delay Issuing the Rule

FedEx expressed concern over the availability of spare parts. FedEx stated that some replacement parts are not currently available from Boeing or are in very limited supply. We infer that FedEx requested we delay issuing the rule until additional supplies of spare parts are available.

We disagree. The objective of this SNPRM is to detect and correct fuel leaks in the slat cans and prevent a potential fire. To delay this action would be inappropriate, since we have determined that an unsafe condition exists and that inspections must be conducted to ensure continued safety. Additionally, based on reports received to date, Boeing does not anticipate the need for significant numbers of part replacements. We have not changed the SNPRM in this regard.

Request To Correct Service Information

Continental and Delta requested resolution of the errors in the service information.

Continental requested that the illustrated parts catalog be permitted for use in determining correct part numbers and alternative part numbers.

Delta noted that the torque values in the service information may be incorrect and that the illustrations of proper assembly are incorrect. Delta also requested that we revise the NPRM (75 FR 31327, June 3, 2010) to specify that the actions be accomplished using the better illustrations available in the AMM.

We agree with the commenters that corrections to Boeing Special Attention Service Bulletin 757–57–0068, dated September 15, 2009, are needed. We have revised the SNPRM to require Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, which corrects the errors specified by the commenters. We have also added new paragraph (j) to this SNPRM to provide credit for actions accomplished before the effective date of the AD in accordance with Boeing Special Attention Bulletin 757–57–0068, dated September 15, 2009, provided the inspection results were reported as specified in that service bulletin.

Request To Allow Replacement of Parts

American requested that the NPRM (75 FR 31327, June 3, 2010) be revised to allow replacing damaged parts with new parts as an alternative to repairing damaged parts. American justified its request by stating that it may be easier to simply replace a damaged housing than to remove the damage.

We partially agree. We agree with the commenter that this change is warranted because a replacement part is an acceptable repair. We disagree with changing the SNPRM, because Boeing has revised Boeing Special Attention Service Bulletin 757–57–0068, to allow either part replacement or repair. As stated previously, we have changed the SNPRM to refer to Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011.

Request To Account for Errors in Figure 11 of the Service Information

American and Delta requested a provision in the NPRM (75 FR 31327, June 3, 2010) to account for errors in Figure 11 of Boeing Special Attention Bulletin 757–57–0068, dated September 15, 2009. The commenters justified the request by stating that the dimensioning of the allowable blendout in Figure 11 of Boeing Special Attention Bulletin 757–57–0068, dated September 15, 2009, is unclear.

We partially agree. We agree with the commenters that the figure in Boeing Special Attention Bulletin 757–57–0068, dated September 15, 2009, is unclear. We disagree with revising this SNPRM, because Boeing has provided corrected service instructions in Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011. As stated previously, we have changed the SNPRM to refer to this revision of the service information.

Clarification of Inspection Requirements

We have revised paragraph (g) of the SNPRM to clarify that the purpose of the detailed inspection of the inboard and outboard main track downstop assemblies of slat numbers 1 through 10, excluding the outboard main track downstop assemblies of slat numbers 1 and 10, is to determine the assembly order and to detect missing or damaged parts.

FAA's Determination

We are proposing this SNPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. Certain changes described above expand the scope of the original NPRM (75 FR 31327, June 3, 2010). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Proposed Requirements of the SNPRM

This SNPRM would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the SNPRM and the Service Information.'' This SNPRM also requires sending the inspection results to Boeing.

Differences Between the SNPRM and the Service Information

Boeing Special Attention Bulletin 757–57–0068, Revision 1, dated July 19, 2011, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this SNPRM would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 645 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	20 work-hours × $85 per hour = $1,700	$0	$1,700	$1,096,500

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

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

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2010–0547; Directorate Identifier 2009–NM–234–AD.

(a) Comments Due Date

We must receive comments by July 16, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by reports of fuel leaking from the front spar of the wing through the slat track housing. We are issuing this AD to detect and correct incorrectly installed main track downstop assemblies, which, when the slat is retracted, could cause a puncture in the slat track housing and lead to a fuel leak and potential fire.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection and Torque Application

Except as required by paragraph (h)(1) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011: Do the actions in paragraphs (g)(1) and (g)(2) of this AD.

(1) Perform a detailed inspection of the inboard and outboard main track downstop assemblies of slat numbers 1 through 10, excluding the outboard main track downstop assemblies of slat numbers 1 and 10, for correct assembly order and missing or damaged parts; perform a detailed inspection of all slat track housings for foreign object debris, visible damage, and missing parts; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, except as required by paragraph (h)(2) of this AD. Do all applicable corrective actions before further flight.

(2) Apply torque to the main track down stop assembly nuts to make sure they have been correctly installed, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011.

(h) Exceptions to the Service Bulletin

(1) Where Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, specifies a compliance time ''after the date on this service bulletin,'' this AD requires compliance at the specified time after the effective date of this AD.

(2) Where Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, specifies to contact Boeing for appropriate action: Before further flight, repair the damage using a method approved in accordance with the procedures specified in paragraph (l)(1) of this AD.

(i) Reporting Requirement

If any of the conditions specified in paragraph B.3., ''Part 3—Appendix A: Inspection Results Report,'' of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, are found during the inspection required by paragraph (g) of this AD, submit a report of the inspection findings at the applicable time specified in paragraph (i)(1) or (i)(2) of this AD, as specified in Appendix A of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, to Boeing through the Boeing Communication System (BCS). The report must include a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(j) Credit for Previous Actions

This paragraph provides credit for inspections and corrective actions required by paragraph (g) of this AD, if the inspections and corrective actions were performed before the effective date of this AD using Boeing Special Attention Bulletin 757–57–0068, dated September 15, 2009, provided the inspection results were reported as specified in Boeing Special Attention Bulletin 757–57–0068, dated September 15, 2009.

(k) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not 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 current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing, and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the

burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

(m) Related Information

(1) For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *Nancy.Marsh@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; email: *me.boecom@boeing.com;* Internet: *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 18, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–13055 Filed 5–31–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0115; Directorate Identifier 2010–NE–40–AD]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to certain Turbomeca S.A. Arriel 2B and 2B1 turboshaft engines. The existing AD currently requires accomplishment of the TU166 modification. Since we issued that AD, we became aware of an accident involving an engine in-flight shutdown on a twin-engine helicopter powered by two Arriel 2S2 engines. This proposed AD would add the Arriel 2S2 engine to the applicability of engines requiring the TU166 modification with a different compliance time. We are proposing this AD to prevent rupture of a gas generator (GG) turbine blade, which could result in an uncommanded in-flight shutdown and a forced landing or accident.

DATES: We must receive comments on this proposed AD by July 31, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this AD, contact Turbomeca, 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; telex: 570 042; fax: 33 (0)5 59 74 45 15. You may review copies of the referenced service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Rose Len, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7772; fax: 781–238–7199; email: *rose.len@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–0115; Directorate Identifier 2010–NE–40–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On June 14, 2011, we issued AD 2011–13–05, Amendment 39–16728 (76 FR 40222, July 8, 2011) for Turbomeca S.A. Arriel 2B and 2B1 turboshaft engines not modified by the TU166 modification. That AD requires accomplishment of the TU166 modification when the GG turbine is replaced or when the engine or Module M03 is going through overhaul or repair, or within 1,300 cycles-in-service after the effective date of that AD, whichever occurs first. That AD resulted from several cases of GG turbine blade rupture occurring in service on Arriel 2 twin-engine powered helicopters, and one case on a single-engine powered helicopter. We issued that AD to prevent rupture of a GG turbine blade,

which could result in an uncommanded in-flight shutdown and an emergency autorotation landing or accident on single-engine powered helicopters.

Actions Since Existing AD Was Issued

Since we issued AD 2011–13–05, Amendment 39–16728 (76 FR 40222, July 8, 2011), an accident occurred on a Sikorsky S–76C++ twin-engine helicopter following an uncommanded in-flight shutdown of one of its Arriel 2S2 turboshaft engines. That engine did not have the TU166 modification incorporated. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has superseded EASA AD 2010–0198, dated October 1, 2010, which we reference in AD 2011–13–05. The EASA superseding AD, AD 2012–0054, dated April 2, 2012, adds the Arriel 2S2 turboshaft engine to the applicability for incorporating the TU166 modification with its own compliance time. This AD adds the Arriel 2S2 engine with a compliance time different than the Arriel 2B and 2B1 engines.

Relevant Service Information

We reviewed Turbomeca S.A. Alert Mandatory Service Bulletin (MSB) No. A292 72 3166 Version B, dated September 20, 2010, and Alert MSB No. A292 72 4166 Version A, dated March 23, 2012. The Alert MSBs describe procedures for accomplishing the TU166 modification.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain all of the requirements of AD 2011–13–05, Amendment 39–16728 (76 FR 40222, July 8, 2011) except it would reduce the compliance time for the Arriel 2B and 2B1 engines to account for the effective date of that AD. This proposed AD would add the Arriel 2S2 turboshaft engine to the AD applicability and would add accomplishing the TU166 modification to those engines with a compliance time different from the compliance time for the Arriel 2B and 2B1 engines.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 542 products of U.S. registry. We also estimate that it would take about 60 work-hours per product to comply with this AD. The average labor rate is $85 per work-hour. Required parts would cost about $3,900 per product. Based on these figures, we estimate the cost of the AD on U.S. operators to be $4,878,000.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

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

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2011–13–05, Amendment 39–16728 (76 FR 40222, July 8, 2011), and adding the following new AD:

Turbomeca S.A.: Docket No. FAA–2011–0115; Directorate Identifier 2010–NE–40–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by July 31, 2012.

(b) Affected ADs

This AD supersedes AD 2011–13–05, Amendment 39–16728 (76 FR 40222, July 8, 2011).

(c) Applicability

This AD applies to Turbomeca S.A. Arriel 2B, 2B1, and 2S2 turboshaft engines not modified by TU166 modification.

(d) Unsafe Condition

This AD was prompted by reports of an accident involving a twin-engine helicopter powered by two Arriel 2S2 engines. We are issuing this AD to prevent rupture of a gas generator (GG) turbine blade, which could result in an uncommanded in-flight shutdown and a forced landing or accident.

(e) Compliance

Comply with this AD within the compliance times specified, unless already done.

(1) For Arriel 2B and 2B1 turboshaft engines, accomplish the TU166 modification in accordance with the instructions specified within Turbomeca Alert Mandatory Service Bulletin (MSB) No. A292 72 3166 Version B, dated September 20, 2010, when the GG Turbine is replaced or when the engine or Module M03 is going through overhaul or repair, or within 676 cycles-in-service (CIS) after the effective date of this AD, whichever occurs first.

(2) For Arriel 2S2 turboshaft engines, accomplish the TU166 modification in accordance with the instructions specified within Turbomeca Alert MSB No. A292 72 4166 Version A, dated March 23, 2012, when the GG Turbine is replaced or when the engine or Module M03 is going through overhaul or repair, or within 500 CIS after the effective date of this AD, whichever occurs first.

(f) Credit for Previous Actions

For Arriel 2B and 2B1 turboshaft engines, if before the effective date of this AD, you performed the TU166 modification using Turbomeca Alert MSB No. A292 72 3166 Version A, dated August 17, 2010, you met the requirements of this AD.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(h) Related Information

(1) For more information about this AD, contact Rose Len, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7772; fax: 781–238–7199; email: *rose.len@faa.gov.*

(2) European Aviation Safety Agency AD 2012–0054, dated April 2, 2012, also pertains to this AD.

(3) For service information identified in this AD, contact Turbomeca, 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; telex: 570 042; fax: 33 (0)5 59 74 45 15. You may review copies of the referenced service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. You may review copies of the referenced service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on May 25, 2012.

Pete A. White,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2012–13324 Filed 5–31–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0496; Directorate Identifier 2011–NM–263–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The existing AD currently requires revising the airworthiness limitations section (AWL) of the instructions for continued airworthiness (ICA) of the Canadair Regional Jet Maintenance Requirements Manual by incorporating new procedures for repetitive detailed and special detailed inspections for cracking of the aft pressure bulkhead. Since we issued that AD, we have received multiple reports of cracks on the forward face of the rear pressure bulkhead (RPB) web. This proposed AD would require revising the maintenance program to incorporate a revised task specified in a certain temporary revision, which requires an improved non-destructive inspection procedure; and adds airplanes to the applicability. We are proposing this AD to detect and correct cracking in the RPB, which could result in reduced structural integrity and rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by July 16, 2012.

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

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

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Zimmer, Aerospace Engineer, Airframe & Mechanical Systems Branch, ANE–171, New York Aircraft Certification Office (ACO), FAA, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7306; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0496; Directorate Identifier 2011–NM–263–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On October 31, 2005, we issued AD 2005–23–01, Amendment 39–14359 (70 FR 69073, November 14, 2005). That AD required actions intended to address an unsafe condition on the products listed above. Since we issued AD 2005–23–01, Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2011–30, dated August 11, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Cracks on the forward face of the Rear Pressure Bulkhead (RPB) web have been discovered on three CL–600–2B19 aeroplanes in-service. This indicates that the existing inspection requirements of Airworthiness Limitation (AWL) task 53–61–153 mandated by [TCCA] AD CF–2005–13R1 are not adequate. Failure of the RPB could result in rapid decompression of the aeroplane.
>
> A Temporary Revision has been made to Part 2 of the Maintenance Requirements Manual (MRM) to revise the existing AWL task by introducing an improved Non-Destructive Inspection (NDI) procedure to ensure that fatigue cracking of the RPB is detected and corrected.
>
> This [TCCA] directive mandates the incorporation of a new NDI procedure for AWL task number 53–61–153.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier Inc. has issued Temporary Revision 2B–2187, dated

June 22, 2011, to Appendix B—Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 MRM. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 586 products of U.S. registry.

The actions that are required by AD 2005–23–01, Amendment 39–14359 (70 FR 69073, November 14, 2005), and retained in this proposed AD take about 2 work-hours per product, at an average labor rate of $85 per work hour. Based on these figures, the estimated cost of the currently required actions is $170 per product.

We estimate that it would take about 1 work-hour per product to comply with the new basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $49,810, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2005–23–01, Amendment 39–14359 (70 FR 69073, November 14, 2005), and adding the following new AD:

Bombardier, Inc.: Docket No. FAA–2012–0496; Directorate Identifier 2011–NM–263–AD.

(a) Comments Due Date

We must receive comments by July 16, 2012.

(b) Affected ADs

This AD supersedes AD 2005–23–01, Amendment 39–14359 (70 FR 69073, November 14, 2005).

(c) Applicability

(1) This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 and subsequent.

(2) This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (k)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in FAA Advisory Circular (AC) 25.1529–1A, dated November 20, 2007 (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/list/AC%2025.1529-1A/$FILE/AC%2025.1529-1A.pdf*).

(d) Subject

Air Transport Association (ATA) of America Code 53: Fuselage.

(e) Reason

This AD was prompted by multiple reports of cracks on the forward face of the rear pressure bulkhead (RPB) web. We are issuing this AD to detect and correct cracking in RPB, which could result in reduced structural integrity and rapid decompression of the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Retained Revision to the Airworthiness Limitations (AWL) Section

This paragraph restates the requirements of paragraph (f) of AD 2005–23–01, Amendment 39–14359 (70 FR 69073, November 14, 2005). For airplanes having serial numbers 7003 through 8025 inclusive, 8030, and 8034: Within 30 days after November 29, 2005 (the effective date of AD 2005–23–01), revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness of the Canadair Regional Jet Maintenance Requirements Manual (MRM), Part 2, Appendix B, ''Airworthiness Limitations,'' by incorporating the information specified in AWL Number 53–61–153 of the Canadair Regional Jet Temporary Revision (TR) 2B–2109, dated October 13, 2005, into the AWL section. Perform the applicable detailed and special detailed inspections for cracking of the aft pressure bulkhead, as specified in the TR, at the applicable compliance time specified in table 1 of this AD. Repeat the detailed inspection thereafter at intervals not to exceed 1,085 flight cycles, and repeat the special detailed inspection thereafter at intervals not to exceed 4,360 flight cycles, in accordance with the procedures specified in

AWL Number 53–61–153, as introduced by Canadair Regional Jet TR 2B–2109, dated October 13, 2005, to Appendix B, ''Airworthiness Limitations,'' of Part 2 of the Canadair Regional Jet MRM.

TABLE 1—COMPLIANCE TIMES FOR INITIAL INSPECTIONS

As of November 29, 2005 (the effective date of AD 2005–23–01, Amendment 39–14359 (70 FR 69073, November 14, 2005)): If the total flight cycles accumulated on the airplane are—	Inspect before the airplane accumulates—
8,000 or fewer	12,000 total flight cycles.
More than 8,000 but fewer than 12,000	15,000 total flight cycles or within 4,000 flight cycles after November 29, 2005 (the effective date of AD 2005–23–01, Amendment 39–14359 (70 FR 69073, November 14, 2005)), whichever is first.
12,000 or more but fewer than 15,000	17,000 total flight cycles or within 3,000 flight cycles after November 29, 2005 (the effective date of AD 2005–23–01), whichever is first.
15,000 or more but fewer than 17,000	18,500 total flight cycles or within 2,000 flight cycles after November 29, 2005 (the effective date of AD 2005–23–01), whichever is first.
17,000 or more but fewer than 18,500	19,500 total flight cycles or within 1,500 flight cycles after November 29, 2005 (the effective date of AD 2005–23–01), whichever is first.
18,500 or more but fewer than 19,500	20,000 total flight cycles or within 1,000 flight cycles after November 29, 2005 (the effective date of AD 2005–23–01), whichever is first.
19,500 or more	500 flight cycles after November 29, 2005 (the effective date of AD 2005–23–01).

(h) Retained General Revision of MRM

This paragraph restates the requirements of paragraph (g) of AD 2005–23–01, Amendment 39–14359 (70 FR 69073, November 14, 2005). For airplanes having serial numbers 7003 through 8025 inclusive, 8030, and 8034: When the information in AWL Number 53–61–153 of the Canadair Regional Jet TR 2B–2109, dated October 13, 2005, to Appendix B, ''Airworthiness Limitations,'' of Part 2 of the Canadair Regional Jet MRM, is included in the general revisions of the MRM, the general revisions may be inserted into the AWL section of the Instructions for Continued Airworthiness, and this information may be removed from the MRM.

(i) New Revision of the Maintenance Program

Within 60 days after the effective date of this AD: Revise the maintenance program by incorporating the revised inspection requirements specified in AWL Number 53–61–153 of Bombardier TR 2B–2187, dated June 22, 2011, to Appendix B –Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 MRM. The initial compliance times for the task start at the applicable time specified in paragraphs (i)(1) and (i)(2) of this AD. Doing an inspection required by paragraph (i) of this AD terminates the requirements of paragraph (g) of this AD.

(1) For airplanes that have accumulated 10,500 total flight cycles or less as of the effective date of this AD: Before the accumulation of 12,000 total flight cycles.

(2) For airplanes that have accumulated more than 10,500 total flight cycles as of the effective date of this AD: Within 1,500 flight cycles after the effective date of this AD, or at the next scheduled inspection interval for AWL Number 53–61–153, whichever occurs first.

(j) No Alternative Actions or Intervals

After accomplishing the revisions required by paragraph (i) of this AD, no alternative actions (e.g., inspections) or intervals may be used other than those specified in Canadair Regional Jet TR 2B–2109, dated October 13, 2005, to Appendix B, ''Structural Airworthiness Limitations, of Part 2 of the Canadair Regional Jet MRM; and Bombardier TR 2B–2187, dated June 22, 2011, to Appendix B—Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 MRM; unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in paragraph (k)(1) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228–7300; fax: (516) 794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(l) Related Information

Refer to MCAI Canadian Airworthiness Directive CF–2011–30, dated August 11, 2011, and the following temporary revision; for related information.

(1) Bombardier TR 2B–2187, dated June 22, 2011, to Appendix B—Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 MRM.

(2) Canadair Regional Jet TR 2B–2109, dated October 13, 2005, to Appendix B, ''Airworthiness Limitations,'' of Part 2 of the Canadair Regional Jet MRM.

Issued in Renton, Washington, on May 18, 2012.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–13329 Filed 5–31–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA–2011–0045]

Proposed Legal Interpretation

AGENCY: Federal Aviation Administration (FAA).

ACTION: Proposed interpretation.

SUMMARY: The FAA is considering clarifying prior legal interpretations regarding pilot in command discretion under 14 CFR 121.547(a)(3) and (a)(4).

DATES: Comments must be received on or before July 31, 2012.

ADDRESSES: You may send comments identified by Docket Number FAA–2011–0045 using any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

Mail: Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

Hand Delivery or Courier: Bring comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Fax: Fax comments to Docket Operations at 202–493–2251.

FOR FURTHER INFORMATION CONTACT: Sara Mikolop, Attorney, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–3073.

SUPPLEMENTARY INFORMATION: On May 12, 2010, the FAA received a request for a legal interpretation from the Independent Pilots Association (IPA) regarding the consequences of deadhead transportation in connection with flight time limitations for flag operations, and the conditions for admission to an aircraft flight deck found in 14 CFR 121.547 and the United Parcel Service Flight Operations Manual (UPS FOM). We propose a three-part response to IPA's inquiry. First, we will address the issues regarding deadhead transportation. Second, we will address the issues regarding admission to the flight deck, in which we propose to clarify prior interpretations regarding pilot in command discretion under 14 CFR 121.547(a)(3) and (a)(4). Third, we will address the issues regarding certain provisions in the UPS FOM regarding admission to the flight deck.

I. Deadhead Transportation [1]

An individual is considered to be in deadhead transportation when an employing air carrier requires that individual to ride as a passenger to a location at which he or she will serve as a flightcrew member or from a location at which the individual was relieved from duty as a flightcrew member to return to his home station.[2] *See* 14 CFR 121.471(f); Legal Interpretation from Donald P. Byrne to James W. Johnson (May 9, 2003). In order to qualify as deadhead transportation, the transportation (1) Cannot be local in character, (2) must be required of the flightcrew member by the air carrier and, (3) must be arranged by the air carrier. *See* Legal Interpretation 1992–48. Assuming that all three of these qualifiers are met, an individual assigned by a certificate holder to a flight, without being assigned to any duties during that flight, will be considered to be in deadhead transportation. We caution, however, that deadhead transportation is not considered part of a flightcrew member's rest period under any of the regulations governing flight time limitations. *See* 14 CFR 121.471(f), 121.491 and 121.519.

Although time spent in deadhead transportation is not included as part of a flightcrew member's rest, it is also not included in calculations of flight time limitations for a flightcrew member engaged in flag operations. Flight time limitations for flightcrew members in flag operations are found in subpart R of part 121. Subpart R, places limits on the amount of time an individual may act or may be scheduled to act as a flightcrew member for an air carrier. For purposes of determining compliance with the flight time limitations in subpart R, flight time calculations are based on total block-to-block time. *See* Legal Interpretation 1997–20; Legal Interpretation 1990–27 (stating that the language in § 121.483(a), ''no carrier may schedule a pilot to fly * * *,'' prescribes a block-to-block limitation); Legal Interpretation 1989–1 (distinguishing ''scheduled to fly'' from the term, ''flight deck duty'' (used in subpart S) which means work as a flightcrew member on the flight deck).

These flight time limitations can only be violated when an individual acts or is scheduled to act as a flightcrew member for an air carrier. Thus, the time during which one is assigned to deadhead transportation does not count towards flight time limits because, in order to be assigned to deadhead transportation, one cannot also be assigned to a flight as a flightcrew member. However, we must caution that if a person in deadhead transportation performs duty during the course of the flight as a pilot, flight engineer, or flight navigator, that person becomes a flightcrew member. *See* 14 CFR § 1.1 (defining a flightcrew member as ''[A] pilot, flight engineer, or flight navigator assigned to duty in an aircraft during flight time.''). As such, the total block-to-block time for the flight will accrue towards the flight time limitations found in subpart R.

II. Admission to the Flight Deck

IPA's request for interpretation raises two broad issues related to the application of § 121.547(a) which identifies the individuals who may be admitted to the flight deck of an aircraft operating under part 121 and the conditions for such admission.[3] The first issue we will address involves the identification of the appropriate provision within § 121.547(a) by which crewmembers and individuals in deadhead transportation may be admitted to the aircraft flight deck. The second issue we will address involves the exercise of pilot in command (PIC) discretion regarding the admission of certain individuals to the flight deck.

Regarding the first issue raised by IPA, crewmembers may be admitted to the flight deck pursuant to § 121.547(a)(1) and individuals in deadhead transportation may be admitted to the flight deck pursuant to §§ 121.547(a)(3) or (a)(4). The regulation plainly states that only crewmembers may be admitted to the flight deck of an aircraft under the authority of § 121.547(a)(1). As discussed earlier in this proposed legal interpretation, an individual assigned to a flight as a crewmember cannot, at the same time, be assigned to deadhead transportation.

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[1] We assume for purposes of this proposed legal interpretation that all operations are conducted under the flag operating rules. Thus, the analysis of flight time limitations in this proposed legal interpretation is limited to the current applicable flight time limitations found in subpart R of part 121.

[2] 14 CFR 121.471(f) (flight time limitations applicable to domestic operations) provides a description of deadhead transportation which is used in the same context throughout the part 121 regulatory framework for domestic, flag and supplemental flight time limitations. Section 121.471(f) states, ''Time spent in transportation, not local in character, that a certificate holder requires of a flight crewmember and provides to transport the crewmember to an airport at which he is to serve on a flight as a crewmember, or from an airport at which he was relieved from duty to return to his home station, is not considered part of a rest period.''

[3] Section 121.547(a) states:

(a) No person may admit any person to the flight deck of an aircraft unless the person being admitted is—

(1) A crewmember;

(2) An FAA air carrier inspector, a DOD commercial air carrier evaluator, or an authorized representative of the National Transportation Safety Board, who is performing official duties;

(3) Any person who—

(i) Has permission of the pilot in command, an appropriate management official of the part 119 certificate holder, and the Administrator; and

(ii) Is an employee of—

(A) The United States; or

(B) A part 119 certificate holder and whose duties are such that admission to the flightdeck is necessary or advantageous for safe operation; or

(C) An aeronautical enterprise certificated by the Administrator and whose duties are such that admission to the flightdeck is necessary or advantageous for safe operation.

(4) Any person who has the permission of the pilot in command, an appropriate management official of the part 119 certificate holder and the Administrator. Paragraph (a)(2) of this section does not limit the emergency authority of the pilot in command to exclude any person from the flight deck in the interests of safety.

Thus an individual assigned to deadhead transportation may not be admitted to the flight deck under § 121.547(a)(1).

An individual in deadhead transportation may, however, be admitted to the flight deck under 14 CFR 121.547(a)(3) or (a)(4). Section 121.547(a)(3) allows flight deck access for employees of certain entities, including employees of part 119 certificate holders, whose presence on the flight deck is necessary or advantageous for safe operation. Thus, this provision could be used to allow persons in deadhead transportation access to the flight deck. Section 121.547(a)(4) is more general than § 121.547(a)(3) in that it applies to ''any person.''

The second broad issue raised by IPA involves the PIC's exercise of discretion regarding flight deck admission under § 121.547(a). This issue has been discussed in prior legal interpretations examining the PIC's overall safety responsibility, as well as the implication of the PIC prior permission requirements that appear in §§ 121.547(a)(3) and (a)(4) but not in (a)(1) or (a)(2).

Individuals who may be admitted to the flight deck under §§ 121.547(a)(1) and (a)(2) (*i.e.,* crewmembers, FAA inspectors, Department of Defense Commercial air carrier evaluators and certain National Transportation Safety Board representatives) serve a presumed safety role and as such, are not subject to the same prerequisites for admission as those individuals identified in §§ 121.547(a)(3) and (a)(4). In contrast with §§ 121.547(a)(1) and (a)(2), admission to the flight deck under either §§ 121.547(a)(3) or (a)(4) requires prior permission from the PIC, the FAA Administrator and an appropriate management official of the certificate holder. In promulgating §§ 121.547(a)(3) and (a)(4), the FAA has recognized a legitimate need to allow individuals who do not fall within §§ 121.547(a)(1) and (a)(2) onto the flight deck. The FAA has also recognized that this need for flight deck access does not arise out of a presumed safety need. Accordingly, the PIC has greater latitude to deny an individual access to the flight deck under §§ 121.547 (a)(3) and (a)(4).

In prior legal interpretations, we stated that the PIC permission provision provides the PIC unfettered discretion whether to admit certain individuals to the flight deck under a §§ 121.547(a)(3) or (a)(4) situation. *See* Legal Interpretation from Joseph A. Conte to Brigitte Lakah (December 16, 2002); Legal Interpretation 2001–7. *But see* Legal Interpretation 2003–1 (distinguishing a ''pure'' §§ 121.547(a)(3) or (a)(4) situation as the only time the PIC has unfettered discretion and stating that a ''pure'' §§ 121.547(a)(3) or (a)(4) situation does not exist when an individual's presence on the flight deck is required by another rule (*e.g.,* § 121.550 regarding secret service agents)). We based these interpretations on the rationale that a PIC's safety authority would be undermined if his or her decision to deny permission for certain people to enter the flight deck in a §§ 121.547 (a)(3) or (a)(4) situation was challenged by his or her employer. *See* Legal Interpretation 2003–1 (indicating that post flight disciplinary proceedings taken by an air carrier in a pure §§ 121.547(a)(3) or (a)(4) situation interferes with the duties and responsibilities required of a PIC by regulation); Legal Interpretation from Joseph A. Conte to Brigitte Lakah (December 16, 2002) (stating that second-guessing a PIC's decision to deny permission for certain people to enter the flight deck would undermine ''[T]he safety underpinning for having a 'PIC-permission-provision' in the regulations.''); Legal Interpretation 2001–7.

The PIC bears the responsibility for the safety of the passengers, crew, cargo and aircraft during flight. *See* 14 CFR 91.3 and 121.535(e)–(f). To that end, it continues to be the PIC's decision as to whether there is a safety-related reason for excluding from the flight deck an individual eligible for admission under §§ 121.547(a)(3) or (a)(4). *See e.g.* Legal Interpretation 2001–7 (identifying numerous potential reasons for denying admission to the flight deck in a §§ 121.547(a)(3) or (a)(4) situation such as rough weather, distraction to flightcrew, a complex operation requiring heightened attention by the flightcrew, all of which are safety-related).

However, to the extent that prior legal interpretations state or simply imply that air carriers have no ability to question a PIC in their employ regarding his or her decision to deny flight deck access to an individual for a reason that is not based on a safety concern, we believe the agency overstated its position. Accordingly, we propose to rescind the relevant portions of those prior legal interpretations. The FAA believes that at an appropriate time and venue, air carriers must be able to question why a PIC decided to exclude certain individuals from the flight deck when there was no apparent safety issue.

While, as we have stated above, the PIC is responsible for the safety of the passengers, crew, cargo and aircraft during flight, we also hold air carriers responsible for the safe conduct of all aspects of their operations. *See generally* 14 CFR part 121. But, limiting air carriers' ability to manage their workforce, when there is no apparent risk to aviation safety, is outside the scope of the agency's safety oversight responsibilities.

The FAA's interest is in promoting safety and as such, we would be concerned with any action by the carrier that could reasonably impact the ability of the PIC to exercise his or her authority to make a determination that access to the flight deck needs to be denied for the safety of the operation. To that end, the agency presumption in any investigation will be that the PIC acted appropriately. The FAA expects, however, that the PIC will be able to articulate a safety-related reason for denying access to the flight deck in situations subject to §§ 121.547(a)(3) and (a)(4).

III. United Parcel Service Flight Operations Manual

The United Parcel Service Flight Operations Manual (UPS FOM) provides for the UPS implementation of § 121.547(a). *See* UPS FOM, Administration, Jumpseat Policies and Procedures, 02–04, Priority Descriptions (Rev No: 40, Rev Date: 08/31/10). The UPS FOM includes a list that describes numerous categories of potential jumpseat occupants and provides a priority order for their carriage. *See id.* The categories of potential jumpseat occupants include potential crewmembers and individuals in deadhead transportation. *See id.* The UPS FOM identifies as ''Priority 3A'' jumpseat occupants, ''UPS crewmembers who have been provided a commercial ticket for a deadhead, but elect to travel via the Company jumpseats instead * * *'' *See id.* The UPS FOM identifies, ''U.S. Government couriers (U.S. Government employees only), Loadmasters, UPS Maintenance and Flight Operations personnel * * * (Note)'' as priority 3 jumpseat occupants. The ''Note'' referred to in the priority 3 description further explains the priority 3 jumpseat occupants as follows:

Note: Priority 3 UPS crewmember flight deck occupants are important to UPS flight operations. These priority 3 flight deck occupants are UPS-assigned other crewmembers and these on-duty crewmembers will assist the operating crew at the direction of the Captain during normal and emergency operations. These duties enhance the security and safety of the flight operation; thus, these crewmembers gain

admission to the flight deck under FAR 121.547 (a)(1). As a result, the Captain's discretion, regarding these other crewmembers, is not unfettered. The exclusion of these crewmembers from the flight deck requires that the Captain has a compelling explanation, which is valid only if an emergency situation exists whereby the presence of these crewmembers is not in the interests of aviation safety.

See id. Based on the note associated with the description of individuals identified for priority 3 status by the UPS FOM, it appears that UPS intends for loadmasters and UPS maintenance and flight operations personnel to be assigned to perform duties during flight and therefore meet the definition of crewmembers. It is possible that these individuals meet the definition of ''crewmember'' if they are ''assigned to perform duty in an aircraft during flight time.'' *See* 14 CFR 1.1. *See e.g.* Legal Interpretation 1986–12 (stating that if a mechanic employee of an air carrier is assigned duty during flight time, then the mechanic is a ''crewmember'' and may ride in the jumpseat pursuant to § 121.547(a)(1)). It is also possible that some individuals could meet the definition of flightcrew member depending on their airman qualifications and the type of duty assigned, thus triggering the flight time limitations in Subpart R.[4] For purposes of evaluating compliance with § 121.547(a), the priority descriptions in the UPS FOM are not determinative. A determination as to whether a jumpseat occupant meets the definition of crewmember or flightcrew member for a particular operation would have to be made on a case-by-case basis because the language in the UPS FOM does not provide sufficient detail to make a blanket determination. If a particular jumpseat occupant meets the definition of flightcrew member or crewmember then this individual would gain admission to the flight deck under § 121.547(a)(1). If it is determined that a particular individual seeking admission to the flight deck has been assigned to the flight for purposes of deadhead transportation, with the intent that he or she travel primarily as a passenger, then this individual may gain access to the flight deck with the approvals described in §§ 121.547(a)(3) or (a)(4).

Issued in Washington, DC, on May 24, 2012.

Rebecca B. MacPherson,

Assistant Chief Counsel for Regulations, AGC–200.

[FR Doc. 2012–13290 Filed 5–31–12; 8:45 am]

BILLING CODE 4910–13–P

[4] 14 CFR 121.385(a) provides the regulatory framework for required crewmembers. It states, ''No certificate holder may operate an airplane with less than the minimum flight crew in the airworthiness certificate or the Airplane Flight Manual (AFM) approved for that type airplane and required by this part for the kind of operation being conducted.'' To the extent that a certificate holder assigns a deadheading individual, flightcrew member or crewmember to a particular operation and that individual is not required for the operation by the aircraft type certificate, operating regulations or AFM, the FAA would not view that individual as a ''required crewmember'' for purposes of compliance with 14 CFR 121.385(a).

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 543

RIN 3141–AA27

Minimum Internal Control Standards

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule.

SUMMARY: The National Indian Gaming Commission (NIGC) proposes to amend its minimum internal control standards for Class II gaming under the Indian Gaming Regulatory Act to reorder the sections, delete commonly understood definitions, add and amend existing definitions; amend the term ''variance'' as it applies to establishing an alternate minimum standard; amend the bingo, pull-tab, information and technology sections to reflect technological advances; delete references to ''unrestricted player accounts''; and consolidate the revenue audit and audit and accounting procedures into their respective sections.

DATES: Submit comments on or before July 31, 2012.

ADDRESSES: You may submit comments by any one of the following methods, however, please note that comments sent by electronic mail are strongly encouraged.

- *Email comments to: reg.review@nigc.gov.*
- *Mail comments to:* National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005.
- *Hand deliver comments to:* 1441 L Street NW., Suite 9100, Washington, DC 20005.
- *Fax comments to:* National Indian Gaming Commission at 202–632–0045.

FOR FURTHER INFORMATION CONTACT: National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: 202–632–7009; email: *reg.review@nigc.gov.*

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal.

II. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* was signed into law on October 17, 1988. The Act establishes the NIGC and sets out a comprehensive framework for the regulation of gaming on Indian lands. On January 5, 1999, the NIGC published a final rule in the **Federal Register** called *Minimum Internal Control Standards.* 64 FR 590. The rule added a new part to the Commission's regulations establishing Minimum Internal Control Standards (MICS) to reduce the risk of loss because of customer or employee access to cash and cash equivalents within a casino. The rule contains standards and procedures that govern cash handling, documentation, game integrity, auditing, surveillance, and variances, as well as other areas.

The Commission recognized from their inception that the MICS would require periodic review and updates to keep pace with technology, and has amended them three times since: June 27, 2002 (67 FR 43390), August 12, 2005 (70 FR 47108), and October 10, 2008 (73 FR 60498). In addition to making updates to account for advances in technology, the 2008 MICS also included part 543 and began the process of relocating all Class II controls into that part. These MICS do not classify games as Class II or Class III; rather, they provide minimum controls for gaming that is assumed to be Class II.

On November 18, 2010, the NIGC issued a Notice of Inquiry and Notice of Consultation (NOI) advising the public that the NIGC was conducting a comprehensive review of its regulations and requesting public comment on which of its regulations were most in need of revision, in what order the Commission should review its regulations, and the process NIGC should utilize to make revisions. 75 FR 70680 (Nov. 18, 2010). On April 4, 2011, after consulting with tribes and reviewing all comments, NIGC published a Notice of Regulatory Review Schedule (NRR) setting out a consultation schedule and process for review. 76 FR 18457. The Commission's

regulatory review process established a tribal consultation schedule with a description of the regulation groups to be covered at each consultation. This part 543 was included in this regulatory review.

III. Development of the Proposed Rule

The Commission consulted with tribes as part of its review of part 543. In response to comments received, the Commission appointed a Tribal Advisory Committee (TAC) to review and recommend changes to part 543. The TAC submitted its recommendations for part 543 on February 14, 2012.

The Commission developed a preliminary discussion draft based upon recommendations from current and previous TACs, NIGC staff and subject matter experts. The Commission published the preliminary draft on its Web site on March 16, 2012, and requested that all comments from the public be provided to the Agency by April, 27, 2012. The Commission consulted with tribes on the discussion draft in Mayetta, Kansas, on March 22, 2012, and San Diego, California, on April 5, 2012.

Part 543 addresses minimum internal control standards (MICS) for Class II gaming operations. The regulations require tribes to establish controls and implement procedures at least as stringent as those described in this part to maintain the integrity of the gaming operation and minimize the risk of theft.

The MICS were last amended in 2009, in the first phase of a multi-phase process of revising the MICS and separating Class II and III controls. This proposed rule furthers that multi-phase process and includes amendments to update the MICS to reflect widespread technological advances in the industry.

A. General Comments

Commenters generally stated that the discussion draft is an improvement over the current MICS. Some commenters noted that these regulations provide tribes with more flexibility than the existing MICS or the 2010 proposal, but many stated that part 543 should be drafted to provide even more flexibility to tribal regulators and gaming operations. Commenters suggested removing the procedural requirements and measuring compliance by the extent to which tribes have successfully achieved a regulatory standard, rather than the extent to which tribes have followed step-by-step procedures in the MICS. The Commission declines to take this approach, and believes that the standards set forth in this part are both appropriate and sufficiently detailed to be implemented by tribes.

Additionally, some commenters requested that NIGC reference IRS regulations when establishing validation and verification thresholds throughout this part. Although the thresholds are the same in both the MICS and in IRS reporting requirements, the relationship is merely one of convenience for the operations. The intent of the thresholds in the MICS would be unaffected by any prospective change in IRS regulations. Moreover, referencing another agency's regulations could create unnecessary jurisdictional confusion. For these reasons, the Commission declines to reference IRS regulations in the proposed rule.

Finally, some commenters noted inconsistent language and use of the supervision provisions throughout the proposed rule. The Commission has revised each section accordingly, with the exception of the information and technology section, which requires additional detailed controls and segregation of duties because information and technology flows across all departments.

B. Interpretive Provisions

Commenters suggested adding three interpretive provisions to § 543.3. First, commenters requested that the Commission include a provision stating that nothing in this part is intended to limit technology. The Commission agrees that nothing in this part is intended to limit technology, but believes that such a provision is properly located in the technical standards rather than control standards. The Commission invites further comment on specific ways in which the MICS may inadvertently limit technology.

Next, commenters recommended that the Commission include a section specifying that only applicable control standards apply. The Commission agrees and has changed § 543.3(b) of this proposed rule to require TGRAs to ensure that ''TICS are established and implemented that provide a level of control that equals or exceeds *the applicable standards* set forth in this part.'' (emphasis added). If a standard is not applicable, a TGRA need not establish or implement TICS for it and there will be no standard to apply.

Finally, some commenters advocated for the inclusion of a severability clause to ensure that, should a court conclude that any part of this regulation is invalid, such invalidity will not affect the rest of the part. Although a severability clause appears in the current technical standards, the Commission declines to incorporate a severability clause in the proposed rule. Though the presence of severability clause may give some indication of an agency's intent regarding the severability of its regulations, ''severability clauses * * * are not conclusive.'' *Canterbury Liquors* v. *Sullivan,* 999 F. Supp. 144 (D.MA. 1994). When interpreting a regulation, ''the ultimate determination of severability will rarely turn on the presence or absence of such a clause.'' *Community for Creative Non-violence* v. *Turner,* 893 F. 2d 1387 (D.C. Cir. 1990), citing *United States* v. *Jackson,* 390 U.S. 570, 585 n. 27 (1968).

The Commission declines to include a severability clause in this regulation because it believes that the regulations are not so intertwined that striking one provision would necessarily always require invalidation of the entire part, and the lack of a severability clause will not compel a court's finding on the issue.

C. Small Operations

Commenters requested clarification that the charitable gaming operations described in 543.4 are not limited to those with a 501(c)(3) designation. The Commission agrees that it does not intend to limit the definition of charitable organizations to those with a 501(c)(3) designation. For purposes of the MICS, an organization is charitable if the regulating tribe recognizes it as such.

Nevertheless, the comment prompted close review of the charitable organization exception. The Commission invites comment on whether there is a practical difference or benefit for distinguishing charitable operations from other small operations, or whether the small operation provision sufficiently covers all operations, charitable or not, with less than $3 million in gross gaming revenue.

D. Alternate Minimum Standard

Except when a TGRA institutes a stricter standard than those contained in this part, if a TGRA wishes to use a different standard, it may submit a request to the Chair for approval of an alternate minimum standard. The discussion draft differed in terminology, referring to an ''alternate control standard.'' Several commenters expressed confusion over what is meant by an alternate control standard. In response, the Commission revised the terminology to clarify that there is no need to seek approval from the Chair where a TGRA desires to implement

standards that exceed the level of control described in these MICS.

E. Bingo

Many comments expressed concern that the discussion draft separated Class II gaming systems from manual bingo. The Commission agrees with these commenters that ''bingo is bingo'' and there is no need to separate them. For these reasons, the controls for bingo appear as a consolidated section (§ 543.8) in the proposed rule.

Additionally, commenters suggested that the definition of ''agent'' should be expanded to allow computer applications to perform the functions of an agent. The only provision cited in support of this suggestion was § 543.7(d)(3–4), which inadvertently required two agents to verify and validate every gaming system payout. The proposed rule corrects the language in § 543.7(d) to provide that the system may serve as one validator and verifier for manual payouts and the sole verifier and validator for automatic payouts. Further, § 543.3(e) states that ''for any computer applications utilized, alternate documentation or procedures that provide at least the level of control established by the standards of this part, as approved by the TGRA, will be acceptable.'' Therefore, the Commission declines to revise the definition of agent at this time, but invites comment on whether additional uses of the term agent may warrant amendment of the definition.

F. Pull Tabs

The Commission received very few comments on the pull tabs section, but one commenter expressed concern that the defacing requirement and kiosk definition would prevent barcoded pull tabs from being redeemed at kiosks. The Commission revised the definition of kiosk in the proposed rule to specifically include machines with the capability to redeem and reconcile pull tabs, if those machines also perform the routine functions of a kiosk, such as accepting and generating cash-out tickets and gaming credits. Further, the Commission is not limiting technology to the barcode-reading machines referenced in the comment, but has included a provision that allows for kiosks to redeem and reconcile uniquely identified pull tabs (up to $600) without the need for defacing, so long as the tabs are secured and destroyed after removal from the kiosk in accordance with procedures approved by the TGRA.

G. Card Games

The card games section contains standards for both promotional tournament play and regular card room operations. One commenter suggested that promotional and non-promotional funds should be treated in the same way. The Commission disagrees. In promotional play, the operation becomes the custodian of the entry fees; in regular play, the players maintain control of their chips, which they may exchange for value at any point. The custodial relationship is not present in regular card play and, therefore, the controls need not be as stringent. The need for stricter standards in promotional play is also the reason for the difference in rule posting requirements (§§ 543.10(f) and 543.10(g)(5)) cited by one commenter.

Another commenter expressed concern that the standards may allow the card room to be unsupervised. At this time, the Commission has chosen not to revise the standard because it is intended to be a minimum. Nevertheless, the Commission acknowledges the concern and requests further comment on whether further amendments to this section are necessary.

H. Player Tracking, Gaming Promotions, and Complimentary Items

Commenters inquired why player tracking and gaming promotions were combined into one section. The discussion draft and this proposed rule combined the sections because player tracking and gaming promotions are both high risk areas in the gaming industry that offer players awards based upon gaming activity and a predetermined rule structure. The Commission also notes that the two activities are often interrelated, particularly when a player's game play tracking information is used to determine eligibility for gaming promotions.

Many commenters recommended deleting the standards for player tracking and gaming promotions, stating that they are non-gaming activities. The Commission disagrees. Gaming promotions, as defined in the proposed rule, require game play as a condition of eligibility. For example, the promotions standards are not applicable to the type of promotion in which a patron drops a free card into a tumbler drawing. The promotions at issue are directly related to gaming activity and are, therefore, within the scope of the Commission's authority to establish Class II MICS.

Further, although player tracking systems may be useful for gathering other customer data, their primary purpose is to track game play and issue rewards based upon that play.

Because the player tracking and gaming promotions standards found in this proposed rule require game play to become eligible for the rewards, the Commission has concluded that they relate to gaming activities and are within the scope of its authority.

I. Complimentary Items

Commenters have also recommended deletion of the complimentary service or items (comps) section because they believe that it is not directly related to gaming and therefore outside of the Commission's authority. However, like player tracking rewards, comps are awarded to induce gaming at the operation and are awarded based upon gaming activity. Comps are also a high risk area for gaming operations if not adequately controlled, but, unlike player tracking rewards, comps are often granted based on agent discretion. Accordingly, the Commission declines to delete the comps section from the proposed rule.

J. Patron Deposit Accounts

The proposed rule makes two corrections as a result of comments received. First, it resolves a discrepancy between the smart card definition and the patron deposit account standards by eliminating the definitional requirement that smart cards be the only source of account data. Second, it no longer lists ''adjustments'' as an example of a change that patrons may make to their account. Additionally, to clarify one commenter's concerns, personal identification numbers continue to be acceptable forms of identification under § 543.14(b)(1), despite the deletion of the specific reference to them.

Some commenters suggested adding standards for unrestricted player deposit accounts, but the Bank Secrecy Act prohibits access to accounts without some form of identification. Therefore, the proposed rule does not reference unrestricted accounts.

K. Lines of Credit

The Commission received few comments relating to lines of credit. One commenter noted that the TAC recommended deleting this section. Some operations issue lines of credit for gaming, and others, during consultation, have mentioned that they have plans to issue lines of credit in the future. The Commission invites additional comments on why this section is unnecessary.

L. Drop and Count

Many commented generally that the section is too procedural and it should be one, streamlined standard instead of

separated by game. The Commission agrees that this section is more procedural than others. Drop and count is, however, a process, which differs by game.

In response to comments received, the proposed rule contains several edits from the preliminary draft. First, all references to ''soft count'' have been stricken and the section references only a generic ''count.'' Next, physical access to the count room in § 543.17(b) has been expanded to ''count team agents, designated staff, and other authorized persons.'' This change is intended to allow access for regulators, independent auditors, and emergency staff that are not ''agents'' of the operation. Similarly, emergency access to stored full financial instrument storage components was expanded to authorized ''persons'' for addressing an emergency situation because fire department or other emergency responders may not necessarily be personnel of the gaming operation.

Some comments suggested using one term for both financial instrument storage components and drop boxes. Although they serve the same purpose, financial instrument storage components are an industry term specific to player interfaces, while drop boxes are specific to card tables. Applying either of the terms universally could create confusion. Additionally, one commenter was concerned that the terms ''financial instrument storage component'' and ''bill-in meter'' may limit the use of particular technologies. The Commission is interested in hearing what specific technologies this may limit and potential alternative terms.

Finally, one comment suggested that, for operations that do not designate a supervisory count team member, a supervisor from the department receiving the drop proceeds should be able to verify them. The Commission disagrees, and notes that doing so would contravene the intent of § 543.17(f)(14), which requires that the receiving agents have no knowledge of the drop proceeds total before it is verified, and that the drop proceeds are not transferred with their documentation.

M. Cage, Vault, Kiosk, Cash and Cash Equivalents

This section describes the standards and documentation requirements for securing and issuing money from the cage. Some comments advised that the provisions addressing patron deposit accounts and gaming promotions should be moved to their respective sections. The proposed rule does not incorporate this suggested change because the patron deposit and gaming promotion sections address the controls for those programs generally, but the provisions in the cage section are specific to the handling of those types of transactions by the cage. One commenter suggested that the kiosk section is unnecessary. The Commission disagrees. Kiosks function as automated cashiers. Therefore, controls are necessary to ensure kiosks' integrity.

N. Information and Technology

In response to comments, the Commission reviewed the use of the terms ''personnel'' and ''agents'' in this section, and extended the independence provision to all agents, rather than the personnel of the gaming operation. Commenters also requested clarification on the reference to ''systems'' in the physical and logical security provisions. The Commission agrees that ''systems'' might be confused with Class II gaming systems, and has clarified the provisions by adding the following definition of systems to the information technology section: ''As used in this section only, a system is any computerized system that is essential to the gaming environment. This includes, but is not limited to, the server and peripherals for Class II gaming systems, accounting, surveillance, essential phone systems, and door access and warning systems.''

A commenter also suggested deleting the annual requirement for testing recovery procedures. The Commission disagrees, and notes that removing the phrase would not change the standard, because an independent auditor conducts yearly reviews to determine whether each requirement has been met.

O. Surveillance

Several commenters questioned the need for surveillance of a bingo server, particularly where the server is located in a secure physical location with controlled access. The Commission agrees that requiring surveillance of a bingo server may be impractical, and that the controls in the information and technology section are adequate minimums to protect against tampering with a device and its software. Specifically, the Commission points to the physical security standards in § 543.20(e), the logical security standards in § 543.20(f), the user controls in § 543.20(g), and the remote access controls in § 543.20(i). Therefore, the Commission has deleted the bingo server surveillance requirement from the proposed rule.

One commenter expressed concern that the one-year retention period for surveillance footage of suspected crimes, suspicious activity, and security detentions is arbitrary. The Commission notes that this timeframe was adopted from Tribal Gaming Working Group guidance and invites further comment on why the Commission should adopt a different retention period.

One commenter also objected to the definition of sufficient clarity, noting that it may unintentionally prohibit the use of technology that does not use frames. The Commission appreciates this comment and is interested in learning more about the specific types of surveillance technology that may be excluded by requiring 20 frames per second, and whether inclusion of the phrase ''or equivalent recording speed'' would sufficiently address any potential limitations on technology.

Finally, a commenter suggested that the MICS should specifically require documentation of training and surveillance coverage of the bingo board. The Commission appreciates these concerns. TGRAs may include such standards as appropriate. With regard to surveillance of bingo boards, the Commission believes that risks are adequately reduced by the information technology section and part 547 technical standards (for gaming system bingo and electronic card minders) and the presence of a physical card (for manual bingo).

P. Audit and Accounting and Revenue Audit

Several commenters requested that the rule replace ''Commission'' with ''TGRA'' as the entity responsible for citing instances of noncompliance in § 543.23(c)(8). The Commission declines to make this change, but agrees that it is entirely appropriate to add the TGRA, and has done so in the proposed rule.

Some commenters requested that we clarify the requirement to record journal entries by independent accountants, stating that independent accountants do not keep journal entries. The Commission disagrees. Independent CPAs regularly prepare what are referred to as ''audit entries.'' They also sometimes prepare ''closing entries.'' Audit entries and closing entries are specific types of journal entries that are encompassed by the requirement of § 543.23(b)(2)(iii). Further, when ''independent accountant'' refers to an outsourced accountant or accounting firm, the person or firm will prepare journal entries for posting to the records in the same manner as accountants employed by the operation.

Finally, one commenter requested clarification about whether a call to the TGRA to schedule a test of the currency counter would constitute an improper ''announcement'' of the test. A scheduling call to a regulatory body,

particularly in cases where the test may be performed by that same regulatory body, does not constitute an improper announcement under the currency counter testing provision.

Regulatory Matters

Regulatory Flexibility Act

The proposed rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of $100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions, nor will the proposed rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that the proposed rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the proposed rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Paperwork Reduction Act

The information collection requirements contained in this proposed rule were previously approved by the Office of Management and Budget (OMB) as required by 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 3141– 0012, which expired in August of 2011. The NIGC published a notice to reinstate that control number on April 25, 2012. 77 FR 24731. There is no change to the paperwork created by this amendment.

Text of the Proposed Rules

For the reasons discussed in the Preamble, the Commission proposes to amend the text of its regulations at 25 CFR Part 543 to read as follows:

PART 543—MINIMUM INTERNAL CONTROL STANDARDS FOR CLASS II GAMING

Sec.

543.1 What does this part cover?
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543.3 How do tribal governments comply with this part?
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543.12 What are the minimum internal control standards for gaming promotions and player tracking systems?
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543.15 What are the minimum internal control standards for lines of credit?
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543.18 What are the minimum internal control standards for the cage, vault, kiosk, cash and cash equivalents?
543.19 [Reserved]
543.20 What are the minimum internal control standards for information technology and information technology data?
543.21 What are the minimum internal control standards for surveillance?
543.22 [Reserved]
543.23 What are the minimum internal control standards for audit and accounting?
543.24 What are the minimum internal control standards for revenue audit?
543.25—543.49 [Reserved]

Authority: 25 U.S.C. 2702(2), 2706(b)(1–4), 2706(b)(10).

§ 543.1 What does this part cover?

This part establishes the minimum internal control standards for the conduct of Class II games on Indian lands as defined in 25 U.S.C. 2701 *et seq.*

§ 543.2 What are the definitions for this part?

The definitions in this section apply to all sections of this part unless otherwise noted.

Accountability. All financial instruments, receivables, and patron deposits constituting the total amount for which the bankroll custodian is responsible at a given time.

Agent. A person authorized by the gaming operation, as approved by the TGRA, to make decisions or perform assigned tasks or actions on behalf of the gaming operation.

Automatic payout. Payment issued by a machine.

Cage. A secure work area within the gaming operation for cashiers, which may include a storage area for the gaming operation bankroll.

Chair. The Chair of the National Indian Gaming Commission.

Cash equivalents. Documents, financial instruments other than cash, or anything else of representative value to which the gaming operation has assigned a monetary value. A cash equivalent includes, but is not limited to, tokens, chips, coupons, vouchers, payout slips and tickets, and other items to which a gaming operation has assigned an exchange value.

Cashless system. A system that performs cashless transactions and maintains records of those cashless transactions.

Chips. Cash substitutes, in various denominations, issued by a gaming operation.

Class II game. Class II gaming has the same meaning as defined in 25 U.S.C. 2703(7)(A).

Class II gaming system. All components, whether or not technologic aids in electronic, computer, mechanical, or other technologic form, that function together to aid the play of one or more Class II games, including accounting functions mandated by these regulations or part 547 of this chapter.

Commission. The National Indian Gaming Commission, established by the Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq.*

Count. The act of counting and recording the drop and/or other funds. Also, the total funds counted for a particular game, player interface, shift, or other period.

Count room. A secured room location where the count is performed in which the cash and cash equivalents are counted.

Dedicated camera. A video camera that continuously records a specific activity.

Drop proceeds. The total amount of financial instruments removed from drop boxes and financial instrument storage components.

Drop box. A locked container in which cash or cash equivalents are placed at the time of a transaction.

Exception report. A listing of occurrences, transactions or items that fall outside a predetermined range of acceptability.

Financial instrument. Any tangible item of value tendered in Class II game play, including, but not limited to bills, coins, vouchers, and coupons.

Gaming promotion. Any promotional activity or award that requires game play as a condition of eligibility.

Generally Accepted Accounting Principles (GAAP). A widely accepted set of rules, conventions, standards, and procedures for reporting financial information, as established by the Financial Accounting Standards Board (FASB), including, but not limited to, the standards for casino accounting published by the American Institute of Certified Public Accountants (AICPA).

Generally Accepted Auditing Standards (GAAS). A widely accepted set of standards that provide a measure of audit quality and the objectives to be achieved in an audit, as established by the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA).

Governmental Accounting Standards Board (GASB). Generally accepted accounting principles used by state and local governments.

Independent. The separation of functions to ensure that the agent or process monitoring, reviewing, or authorizing the controlled activity, function, transaction is separate from the agents or process performing the controlled activity, function, transaction.

Kiosk. A device capable of accepting or generating wagering or cash-out tickets and/or wagering credits, and may be capable of initiating electronic transfers of money to or from a customer account. Kiosks may also be capable of redeeming and reconciling pull tabs.

Lines of credit. The privilege granted by a gaming operation to a patron to (1) defer payment of debt or (2) to incur debt and defer its payment under specific terms and conditions.

Manual payout. Hand payment to a player.

Marker. A document, signed by the patron, promising to repay credit issued by the gaming operation.

MICS. Minimum internal control standards in this part.

Network communication equipment. A device or collection of devices that controls data communication in a system including, but not limited to, cables, switches, hubs, routers, wireless access points, landline telephones and cellular telephones.

Patron. A person who is a customer or guest of the gaming operation and may interact with a Class II game. Also may be referred to as a ''player.''

Patron deposit account. An account maintained on behalf of a patron, for the deposit and withdrawal of funds for the primary purpose of interacting with a gaming activity.

Player interface. Any component(s) of a Class II gaming system, including an electronic or technological aid (not limited to terminals, player stations, handhelds, fixed units, etc.), that directly enables player interaction in a Class II game.

Prize payout. Payment to a player associated with a winning or qualifying event.

Promotional progressive pots and/or pools. Funds contributed to a game by and for the benefit of players that are distributed to players based on a predetermined event.

Shift. A time period, unless otherwise approved by the tribal gaming regulatory authority, not to exceed 24 hours.

Shill. An agent financed by the gaming operation and acting as a player.

Smart card. A card with embedded integrated circuits that possesses the means to electronically store or retrieve account data.

Sufficient clarity. The capacity of a surveillance system to record images at a minimum of 20 frames per second and at a resolution sufficient to clearly identify the intended activity, person, object, or location.

Surveillance operation room(s). The secured area(s) where surveillance takes place and/or where active surveillance equipment is located.

Surveillance system. A system of video cameras, monitors, recorders, video printers, switches, selectors, and other ancillary equipment used for surveillance.

System of Internal Controls (SICS). An overall operational framework for a gaming operation that incorporates principles of independence and segregation of function, and is comprised of written policies, procedures, and standard practices based on overarching regulatory standards specifically designed to create a system of checks and balances to safeguard the integrity of a gaming operation and protect its assets.

Tier A. Gaming operations with annual gross gaming revenues of more than $3 million but not more than $8 million.

Tier B. Gaming operations with annual gross gaming revenues of more than $8 million but not more than $15 million.

Tier C. Gaming operations with annual gross gaming revenues of more than $15 million.

TGRA. Tribal gaming regulatory authority which is the entity authorized by tribal law to regulate gaming conducted pursuant to the Indian Gaming Regulatory Act.

TICS. Tribal Internal Control Standards.

Vault. A secure area where cash and cash equivalents are stored.

§ 543.3 How do tribal governments comply with this part?

(a) Minimum standards. These are minimum standards and a TGRA may establish and implement additional controls that do not conflict with those set out in this part.

(b) TICS. TGRAs must ensure that TICS are established and implemented that provide a level of control that equals or exceeds the applicable standards set forth in this part.

(1) Evaluation of Existing TICS. Each TGRA must, in accordance with the tribal gaming ordinance, determine whether and to what extent their TICS require revision to ensure compliance with this part.

(2) Compliance Date. All changes necessary to ensure compliance with this part must be promulgated within twelve months of the effective date of this part and implemented at the commencement of the next fiscal year. At the discretion of the TGRA, gaming operations may have an additional six months to come into compliance with the TICS.

(c) SICS. Each gaming operation must develop and implement a SICS that, at a minimum, comply with the TICS.

(1) Existing gaming operations. All gaming operations that are operating on or before the effective date of this part, must comply with this part within the time requirements established in paragraph (b) of this section. In the interim, such operations must continue to comply with existing TICS.

(2) New gaming operations. All gaming operations that commence operations after the effective date of this part must comply with this part before commencement of operations.

(d) Variances. Where referenced throughout this part, the TGRA must set a reasonable threshold for when a variance must be reviewed to determine the cause, and the results of the review must be documented and maintained.

(e) Computer applications. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this part, as approved in writing by the TGRA, will be acceptable.

(f) Determination of tier. (1) The determination of tier level will be made based upon the annual gross gaming revenues indicated within the gaming operation's audited financial statements.

(2) Gaming operations moving from one tier to another will have nine months from the date of the independent certified public accountant's audit report to achieve compliance with the requirements of the new tier. The TGRA may extend the deadline by an additional six months if written notice is provided to the Commission no later than two weeks before the expiration of the nine month period.

(g) Submission to Commission. Tribal regulations promulgated pursuant to this part are not required to be submitted to the Commission pursuant to § 522.3(b) of this chapter.

(h) Enforcement of Commission MICS. (1) Each TGRA is required to establish and implement TICS pursuant to paragraph (b) of this section. Each gaming operation is then required, pursuant to paragraph (c) of this section, to develop and implement a SICS that complies with the TICS. Failure to do so may subject the tribal operator of the gaming operation, or the management contractor, to penalties under 25 U.S.C. § 2713.

(2) Enforcement action by the Commission will not be initiated under this part without first informing the tribe and TGRA of deficiencies in the SICS of its gaming operation and allowing a reasonable period of time to address such deficiencies. Such prior notice and opportunity for corrective action are not required where the threat to the integrity of the gaming operation is immediate and severe.

§ 543.4 Does this part apply to small and charitable gaming operations?

(a) Small gaming operations. This part does not apply to small gaming operations provided that:

(1) The TGRA permits the operation to be exempt from this part;

(2) The annual gross gaming revenue of the operation does not exceed $3 million; and

(3) The TGRA develops, and the operation complies with, alternate procedures that:

(i) Protect the integrity of games offered;

(ii) Safeguard the assets used in connection with the operation; and

(iii) Create, prepare and maintain records in accordance with Generally Accepted Accounting Principles.

(b) Charitable gaming operations. This part does not apply to charitable gaming operations provided that:

(1) All proceeds are for the benefit of a charitable organization;

(2) The TGRA permits the charitable organization to be exempt from this part;

(3) The charitable gaming operation is operated wholly by the charitable organization's agents;

(4) The annual gross gaming revenue of the charitable operation does not exceed $3 million; and

(5) The TGRA develops, and the charitable gaming operation complies with, alternate procedures that:

(i) Protect the integrity of the games offered;

(ii) Safeguard the assets used in connection with the gaming operation; and

(iii) Create, prepare and maintain records in accordance with Generally Accepted Accounting Principles.

(c) Independent operators. Nothing in this section exempts gaming operations conducted by independent operators for the benefit of a charitable organization.

§ 543.5 How does a gaming operation apply to use an alternate minimum standard from those set forth in this part?

(a) TGRA approval. (1) A TGRA may approve an alternate standard from those required by this part if it has determined that the alternate standard will achieve a level of security and integrity sufficient to accomplish the purpose of the standard it is to replace.

(2) For each enumerated standard for which the tribal gaming regulatory authority approves an alternate standard, it must submit to the Chair within 30 days a detailed report, which must include the following:

(i) An explanation of how the alternate standard achieves a level of security and integrity sufficient to accomplish the purpose of the standard it is to replace; and

(ii) The alternate standard as granted and the record on which it is based.

(3) In the event that the TGRA or the tribal government chooses to submit an alternate standard request directly to the Chair for joint government to government review, the TGRA or tribal government may do so without the approval requirement set forth in paragraph (a)(1) of this section.

(b) Chair review. (1) The Chair may approve or object to an alternate standard granted by a TGRA.

(2) Any objection by the Chair must be in writing and provide reasons that the alternate standard, as approved by the TGRA, does not provide a level of security or integrity sufficient to accomplish the purpose of the standard it is to replace.

(3) If the Chair fails to approve or object in writing within 60 days after the date of receipt of a complete submission, the alternate standard is considered approved by the Chair. The Chair may, upon notification to the TGRA, extend this deadline an additional 60 days.

(4) No alternate standard may be implemented until it has been approved by the TGRA pursuant to paragraph (a)(1) of this section or the Chair has approved it pursuant to paragraph (b)(1) of this section.

(c) Appeal of Chair decision. A Chair's decision may be appealed pursuant to 25 CFR Subchapter H.

§ 543.6 [Reserved]

§ 543.7 [Reserved]

§ 543.8 What are the minimum internal control standards for bingo?

(a) Supervision. Supervision must be provided as needed for bingo operations by an agent(s) with authority equal to or greater than those being supervised.

(b) Bingo Cards. (1) Physical bingo card inventory controls must address the placement of orders, receipt, storage, issuance, removal, and cancellation of bingo card inventory to ensure that:

(i) The bingo card inventory can be accounted for at all times; and

(ii) Bingo cards have not been marked, altered, or otherwise manipulated.

(2) Receipt from supplier. (i) When bingo card inventory is initially received from the supplier, it must be inspected (without breaking the factory seals, if any), counted, inventoried, and secured by an authorized agent.

(ii) Bingo card inventory records must include the date received, quantities received, and the name of the individual conducting the inspection.

(3) Storage. (i) Bingo cards must be maintained in a secure location, accessible only to authorized agents, and with surveillance coverage adequate to identify persons accessing the storage area,

(ii) For Tier A operations, bingo card inventory may be stored in a cabinet, closet, or other similar area; however, such area must be secured and separate from the working inventory.

(4) Issuance and Returns of Inventory. (i) Controls must be established for the issuance and return of bingo card inventory. Records signed by the issuer and recipient must be created under the following events:

(A) Issuance of inventory from storage to a staging area;

(B) Issuance of inventory from a staging area to the cage or sellers;

(C) Return of inventory from a staging area to storage; and

(D) Return of inventory from cage or seller to staging area or storage.

(ii) [Reserved]

(5) Cancellation and removal. (i) Bingo cards removed from inventory that are deemed out of sequence, flawed, or misprinted and not returned to the supplier must be cancelled to ensure that they are not utilized in the play of a bingo game. Bingo cards that are removed from inventory and returned to the supplier or cancelled must be logged as removed from inventory.

(ii) Bingo cards associated with an investigation must be retained intact outside of the established removal and cancellation policy.

(6) Logs. (i) The inventory of bingo cards must be tracked and logged from receipt until use or permanent removal from inventory.

(ii) The bingo card inventory record(s) must include:

(A) Date;

(B) Shift;

(C) Time;

(D) Location;

(E) Inventory received, issued, removed, and returned;

(F) Signature of agent performing transaction;

(G) Signature of agent performing the reconciliation;

(H) Any variance;

(I) Beginning and ending inventory; and

(J) Description of inventory transaction being performed.

(c) Bingo card sales. (1) Agents who sell bingo cards must not be the sole verifier of bingo cards for prize payouts.

(2) Manual bingo card sales: In order to adequately record, track, and reconcile sales of bingo cards, the following information must be documented:

(i) Date;

(ii) Shift or session;

(iii) Number of bingo cards issued, sold, and returned;

(iv) Dollar amount of bingo card sales;

(v) Signature, initials, or identification number of the agent preparing the record;

(vi) Signature, initials, or identification number of an independent agent who verified the bingo cards returned to inventory and dollar amount of bingo card sales.

(3) Bingo card sale voids must be processed in accordance with the rules of the game and established controls that must include the following:

(i) Patron refunds;

(ii) Adjustments to bingo card sales to reflect voids;

(iii) Adjustment to bingo card inventory;

(iv) Documentation of the reason for the void; and

(v) Authorization for all voids.

(4) Server Based Bingo card sales. In order to adequately record, track and reconcile sales of bingo cards, the following information must be documented from the server:

(i) Date;

(ii) Shift or session;

(iii) Number of bingo cards sold (this is not required if the system does not track cards sold, but system limitation must be noted);

(iv) Dollar amount of bingo card sales; and

(v) Amount in, amount out and other associated meter information;

(d) Draw. (1) Controls must be established and procedures implemented to ensure that all eligible objects used in the conduct of the bingo game are available to be drawn and have not been damaged or altered.

(i) Verification of physical objects must be performed by two agents before the start of the first bingo game/session. At least one of the verifying agents must be a supervisory agent or independent of the bingo games department.

(ii) Where the selection is made through an electronic aid, certification in accordance with 25 CFR part 547 is acceptable for verifying the randomness of the draw.

(2) Controls must be established and procedures implemented to:

(i) Verify the identity of the objects as they are drawn;

(ii) Accurately record the drawn objects; and

(iii) Transmit the identity of the drawn objects to the participants.

(3) Controls must be established and procedures implemented to provide a method of recall of the draw, which includes the order and identity of the objects drawn, for dispute resolution purposes.

(4) Verification and display of server based draw. Controls must be established and procedures implemented to ensure that:

(i) The identity of each object drawn is accurately recorded and transmitted to the participants. The procedures must identify the method used to ensure the identity of each object drawn.

(ii) For all games offering a prize payout of $1,200 or more, as the objects are drawn, the identity of the objects are immediately recorded and maintained for a minimum of 24 hours.

(iii) Certification in accordance with 25 CFR part 547 is acceptable for verifying the randomness of the draw.

(e) Prize payout. (1) Authorization or signatures.

(i) Controls must be established and procedures implemented to prevent unauthorized access or misappropriation of cash or cash equivalents by identifying the agent authorized (by position) to make a payout and at the predetermined payouts levels for that position; and

(ii) Payout controls must ensure separate control of the cash accountability functions;

(2) Verification of validity. Controls must be established and procedures implemented to verify that the following is valid for the game in play prior to payment of a winning prize:

(i) Winning card(s);

(ii) Objects drawn; and

(iii) The previously designated arrangement of numbers or designations on such cards, as described in 25 U.S.C. 2703(7)(A).

(iv) At least two agents must verify that the card, objects drawn, and previously designated arrangement were valid for the game in play.

(v) Where an automated verification method is available, verification by such method is acceptable.

(3) Validation. (A) For manual payouts, at least two agents must determine the validity of the claim prior to the payment of a prize. The system may serve as one of the validators.

(B) For automatic payout, the system may serve as the sole validator of the claim.

(4) Verification. (A) For manual payouts, at least two agents must verify that the winning pattern has been achieved on the winning card prior to the payment of a prize. The system may serve as one of the verifiers.

(B) For automatic payouts, the system may serve as the sole verifier that the pattern has been achieved on the winning card.

(5) Authorization and signatures. (i) At least two agents must authorize, sign, and witness all manual prize payouts.

(ii) Manual prize payouts over a predetermined amount (not to exceed $5,000 for a Tier A facility, $10,000 at a Tier B facility and $20,000 for a Tier C facility, except for $50,000 for a Tier C facility with over $100,000,000 in gross gaming revenues) must require one of the two signatures and verifications to be a supervisory or

management employee independent of the operation of Class II Gaming System Bingo.

(iii) This predetermined amount must be authorized by management, approved by the tribal gaming regulatory authority, documented, and maintained.

(iv) A Class II gaming system may substitute for one authorization/signature verifying, validating or authorizing a winning card, but may not substitute for a supervisory or management employee signature.

(6) Payout records, including manual payout records, must be controlled to prevent unauthorized access, misappropriation, fraud or forgery. Payout records must include the following information:

(i) Date and time;

(ii) Amount of the payout (alpha & numeric for player interface payouts); and

(iii) Bingo card identifier or player interface identifier.

(iv) Manual payouts must also include the following:

(A) Game name or number;

(B) Description of pattern covered, such as cover-all or four corners;

(C) Signature of all, but not less than two, agents involved in the transaction;

(D) Overrides; (1) An authorized agent must compare the amount of the prize at the player interface to the accounting system amount. If the player interface amount is different than the accounting system amount, an override may be necessary and, if so, must be properly documented.

(2) Override transactions must be verified by a supervisory or management agent independent of the transaction.

(E) Any other information necessary to substantiate the payout.

(7) Payouts must be witnessed and verified against the payout record by an agent other than the agent issuing the payout.

(f) Cash and cash equivalent controls. (1) Procedures must be implemented to prevent unauthorized access to, or fraudulent transactions involving, cash or cash equivalents.

(2) Cash or cash equivalents exchanged between two persons must be counted independently by at least two agents and reconciled to the recorded amounts at the end of each shift or session. Unexplained variances must be documented and maintained. Unverified transfers of cash or cash equivalents are prohibited.

(3) Procedures must be implemented to control cash or cash equivalents based on the amount of the transaction. These procedures must include documentation by shift, session, or other relevant time period of the following:

(i) Inventory, including any increases or decreases;

(ii) Transfers;

(iii) Exchanges, including acknowledging signatures or initials; and

(iv) Resulting variances.

(4) Any change to control of accountability, exchange, or transfer must require that the cash or cash equivalents be counted and recorded independently by at least two agents and reconciled to the recorded amount.

(g) Technologic aids to the play of bingo. Controls must be established and procedures implemented to safeguard the integrity of technologic aids to the play of bingo during installations, operations, modifications, removal and retirements. Such procedures must include the following:

(1) Shipping and receiving. (i) A communication procedure must be established between the supplier, the gaming operation, and the TGRA to properly control the shipping and receiving of all software and hardware components. Such procedures must include:

(A) Notification of pending shipments must be provided to the TGRA by the gaming operation;

(B) Certification in accordance with 25 CFR part 547 and approval by TGRA prior to shipment;

(C) Notification from the supplier to the TGRA, or the gaming operation as approved by the TGRA, of the shipping date and expected date of delivery. The shipping notification must include:

(1) Name and address of the supplier;

(2) Description of shipment;

(3) For player interfaces: a serial number;

(4) For software: software version and description of software;

(5) Method of shipment; and

(6) Expected date of delivery.

(ii) Procedures must be implemented for the exchange of Class II gaming system components for maintenance and replacement.

(iii) Class II gaming system components must be shipped in a secure manner to deter unauthorized access.

(iv) The TGRA, or its designee, must receive all Class II gaming system components and game play software packages, and verify the contents against the shipping notification.

(2) Access credential control methods. (i) Controls must be established to restrict access to the Class II gaming system components, as set forth in § 543.20, Information and Technology.

(ii) [Reserved]

(3) Recordkeeping and audit processes. (i) The gaming operation must maintain the following records, as applicable, related to installed game servers and player interfaces:

(A) Date placed into service;

(B) Date made available for play;

(C) Supplier;

(D) Software version;

(E) Serial number;

(F) Game title;

(G) Asset and/or location number;

(H) Seal number; and

(I) Initial meter reading.

(ii) Procedures must be implemented for auditing such records in accordance with § 543.23, Audit and Accounting.

(4) System software signature verification. (i) Procedures must be implemented for system software verifications. These procedures must include comparing signatures generated by the verification programs required by 25 CFR 547.8, to the signatures provided in the independent test laboratory letter for that software version.

(ii) An agent independent of the bingo operation must perform system software signature verification(s) to verify that only approved software is installed.

(iii) Procedures must be implemented for investigating and resolving any software verification variances.

(iv) Internal audits must be conducted as set forth in § 543.23, Audit and Accounting. Such audits must be documented.

(5) Testing. (i) Testing must be completed during the installation process to verify that the player interface has been properly installed. This must include testing of the following, as applicable:

(A) Communication with the Class II gaming system;

(B) Communication with the accounting system;

(C) Communication with the player tracking system;

(D) Currency and vouchers to bill acceptor;

(E) Voucher printing;

(F) Meter incrementation;

(G) Pay table, for verification;

(H) Player interface denomination, for verification;

(I) All buttons, to ensure that all are operational and programmed appropriately;

(J) System components, to ensure that they are safely installed at location; and

(K) Locks, to ensure that they are secure and functioning.

(6) Display of Rules and Necessary Disclaimers. The TGRA or the operation must verify that all game rules and disclaimers are displayed at all times or made readily available to the player upon request, as required by 25 CFR part 547.

(7) All Class II gaming equipment must comply with 25 CFR part 547, Minimum Technical Standards for Gaming Equipment Used With the Play of Class II Games.

(8) Dispute resolution (h) Operations.

(1) Malfunctions. Procedures must be implemented to investigate, document and resolve malfunctions. Such procedures must address the following:

(i) Determination of the event causing the malfunction;

(ii) Review of relevant records, game recall, reports, logs, surveillance records;

(iii) Repair or replacement of the Class II gaming component;

(iv) Verification of the integrity of the Class II gaming component before restoring it to operation; and

(2) Removal, Retirement and/or Destruction. Procedures must be implemented to retire or remove any or all associated components of a Class II gaming system from operation. Procedures must include the following:

(i) For player interfaces and components that accept cash or cash equivalents:

(A) Coordinate with the drop team to perform a final drop;

(B) Collect final accounting information such as meter readings, drop, payouts, etc.;

(C) Remove and/or secure any or all associated equipment such as locks, card reader, or ticket printer from the retired or removed component; and

(D) Document removal, retirement, and/or destruction.

(ii) For removal of software components:

(A) Purge and/or return the software to the license holder; and

(B) Document the removal.

(iii) For other related equipment such as blowers, cards, interface cards:

(A) Remove and/or secure equipment; and

(B) Document the removal or securing of equipment.

(iv) For all components: (A) Verify that unique identifiers, and descriptions of removed/retired components are recorded as part of the retirement documentation; and

(B) Coordinate with the accounting department to properly retire the component in the system records.

(v) Where the TGRA authorizes destruction of any Class II gaming system components, procedures must be developed to destroy such components. Such procedures must include the following:

(A) Methods of destruction

(B) Witness or surveillance of destruction

(C) Documentation of all components destroyed; and

(D) Signatures of agent(s) destroying components attesting to destruction.

(i) Vouchers. (1) Controls must be established and procedures implemented to:

(i) Verify the authenticity of each voucher or coupon redeemed.

(ii) If the voucher is valid, verify that the patron is paid the appropriate amount.

(iii) Document the payment of a claim on a voucher that is not physically available or a voucher that cannot be validated such as a mutilated, expired, lost, or stolen voucher.

(iv) Retain payment documentation for reconciliation purposes.

(v) For manual payment of a voucher of $500 or more, require a supervisory employee to verify the validity of the voucher prior to payment.

(2) Vouchers paid during a period while the voucher system is temporarily out of operation must be marked ''paid'' by the cashier.

(3) Vouchers redeemed while the voucher system was temporarily out of operation must be validated as expeditiously as possible upon restored operation of the voucher system.

(4) Paid vouchers must be maintained in the cashier's accountability for reconciliation purposes.

(5) Unredeemed vouchers can only be voided in the voucher system by supervisory employees. The accounting department will maintain the voided voucher, if available.

(j) All relevant controls from § 543.20, Information and Technology will apply.

(k) Revenue Audit. Standards for revenue audit of bingo are contained in § 543.24, Revenue Audit.

(l) Variance. The TGRA must establish the threshold level at which a variance, including deviations from the mathematical expectations required by 25 CFR 547.4, will be reviewed to determine the cause. Any such review must be documented.

§ 543.9 What are the minimum internal control standards for pull tabs?

(a) Supervision. Supervision must be provided as needed for pull tab operations and over pull tab storage areas by an agent(s) with authority equal to or greater than those being supervised.

(b) Pull tab inventory. Controls must be established and procedures implemented to prevent unauthorized access, misappropriation, forgery, theft, or fraud to pull tab inventory. Such controls must provide that:

(1) Access to pull tabs is restricted to authorized agents;

(2) The pull tab inventory is controlled by agents independent of pull tab sales;

(3) Pull tabs exchanged between agents are secured and independently controlled;

(4) Increases or decreases to pull tab inventory are recorded, tracked, and reconciled; and

(5) Pull tabs must be maintained in a secure location, accessible only to authorized agents, and with surveillance coverage adequate to identify persons accessing the area.

(c) Pull tab sales. (1) Controls must be established and procedures implemented to record, track, and reconcile all pull tab sales and voids.

(2) When pull tab sales are recorded manually, total sales must be verified by an agent independent of the pull tab sales being verified.

(3) No person may have unrestricted access to pull tab sales records.

(d) Winning pull tabs. (1) Controls must be established and procedures implemented to record, track, and reconcile all redeemed pull tabs and pull tab payouts.

(2) The redeemed pull tabs must be defaced so that they cannot be redeemed for payment again.

(3) Pull tabs that are uniquely identifiable with a machine readable code (including, but not limited to a barcode) may be redeemed, reconciled, and stored by kiosks without the need for defacing, so long as the redeemed pull tabs are secured and destroyed after removal from the kiosk in accordance with the procedures approved by the TGRA.

(4) Winning pull tabs must be verified and paid as follows:

(i) Prize payouts of $600 or more, or a lesser amount established by the gaming operation, must be documented and verified by at least two agents. If an automated method of verification is available, it is acceptable for the automated method to serve as one of the verifiers.

(ii) Prize payouts over a predetermined amount require the signature and verification of two agents, one of whom must be a member of supervisory or management staff independent of the pull tab department. This predetermined amount must be authorized by management, documented, and maintained.

(5) Total payout must be calculated and recorded by shift.

(e) Pull tab operating funds.

(1) All funds used to operate the pull tab game must be accounted for and recorded and all transfers of cash and/or cash equivalents must be verified.

(2) All funds used to operate the pull tab game must be independently counted and verified by at least two agents and reconciled to the recorded

amounts at the end of each shift or session.

(f) Statistical records. (1) Statistical records must be maintained, including (for games sold in their entirety) a win-to-write hold percentage as compared to the expected hold percentage derived from the flare. Records must also include win and write (sales) for each deal or type of game, for:

(i) Each shift;

(ii) Each day;

(iii) Month-to-date; and

(iv) Year-to-date or fiscal year-to-date as applicable.

(2) A manager independent of the pull tab operations must review statistical information at least on a monthly basis and must investigate any unusual statistical fluctuations. These investigations must be documented, maintained for inspection, and provided to the TGRA upon request.

(g) Revenue audit. Standards for revenue audit of pull tabs are contained in § 543.24, Revenue Audit.

(h) Variances. The TGRA must establish the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

§ 543.10 What are the minimum internal control standards for card games?

(a) Supervision. Supervision must be provided as needed during the card room operations by an agent(s) with authority equal to or greater than those being supervised.

(1) A supervisor may function as a dealer without any other supervision if disputes are resolved by supervisory personnel independent of the transaction or independent of the card games department; or

(2) A dealer may function as a supervisor if not dealing the game.

(b) Exchanges or transfers. (1) Exchanges between table banks and the main card room bank (or cage, if a main card room bank is not used) must be authorized by a supervisor. All exchanges must be evidenced by the use of a lammer unless the exchange of chips, tokens, and/or cash takes place at the table. If table banks are maintained at an imprest level and runners are used for the exchanges at the table, no supervisory authorization is required.

(2) Exchanges from the main card room bank (or cage, if a main card room bank is not used) to the table banks must be verified by the card room dealer and the runner.

(3) Transfers between the main card room bank and the cage must be properly authorized and documented. Documentation must be retained for at least 24 hours.

(c) Playing cards. (1) New and used playing cards must be maintained in a secure location, with appropriate surveillance coverage, and accessible only to authorized agents.

(2) Used playing cards that are not to be re-used must be properly cancelled and removed from service to prevent re-use. The removal and cancellation procedure requires TGRA review and approval.

(3) Playing cards associated with an investigation must be retained intact and outside of the established removal and cancellation procedure.

(d) Shill funds. (1) Issuance of shill funds must be recorded and have the written approval of the supervisor.

(2) Returned shill funds must be recorded and verified by a supervisor.

(3) The replenishment of shill funds must be documented.

(e) Standards for reconciliation of card room bank. Two agents—one of whom must be a supervisory agent—must independently count the table inventory at the opening and closing of the table and record the following information:

(1) Date;

(2) Shift;

(3) Table number;

(4) Amount by denomination;

(5) Amount in total; and

(6) Signatures of both agents.

(f) Posted rules. The rules must be displayed or available for patron review at the gaming operation, including rules governing contests, prize payouts, fees, the rake collected, and the placing of antes.

(g) Promotional Progressive Pots and Pools. (1) All funds contributed by players into the pools must be returned when won in accordance with the posted rules with no commission or administrative fee withheld.

(i) The payout may be in the form of personal property, such as a car.

(ii) A combination of a promotion and progressive pool may be offered.

(2) The conditions for participating in current card game promotional progressive pots, pools, and any related promotions, including drawings and giveaway programs, must be prominently displayed or available for customer review at the gaming operation.

(3) Individual payouts for card game promotional progressive pots, pools and any other promotion, including related drawings and giveaway programs, that are $600 or more must be documented at the time of the payout to include the following:

(i) Customer's name;

(ii) Date of payout;

(iii) Dollar amount of entry payout and/or nature and dollar value of any non-cash payout;

(iv) The signature of the agent completing the transaction attesting to the disbursement of the payout; and

(v) Name of contest/tournament.

(4) If the cash (or cash equivalent) payout for the card game promotional progressive pot, pool, or related promotion, including a payout resulting from a drawing or giveaway program, is less than $600, documentation must be created to support accountability of the bank from which the payout was made.

(5) Rules governing current promotional pools must be conspicuously posted in the card room and/or available in writing for customer review. The rules must designate:

(i) The amount of funds to be contributed from each pot;

(ii) What type of hand it takes to win the pool;

(iii) How the promotional funds will be paid out;

(iv) How/when the contributed funds are added to the pools; and

(v) Amount/percentage of funds allocated to primary and secondary pools, if applicable.

(6) Promotional pool contributions must not be placed in or near the rake circle, in the drop box, or commingled with gaming revenue from card games or any other gambling game.

(7) The amount of the pools must be conspicuously displayed in the card room.

(8) At least once each day that the game is offered, the posted pool amount must be updated to reflect the current pool amount.

(9) At least once each day that the game is offered, agents independent of the card room must reconcile the increases to the posted pool amount to the cash previously counted or received by the cage.

(10) All decreases to the pool must be properly documented, including a reason for the decrease.

(11) Promotional funds removed from the card game must be placed in a locked container.

(i) Agents authorized to transport the locked container are precluded from having access to the contents keys.

(ii) The contents key must be maintained by a department independent of the card room.

(iii) At least once a day, the locked container must be removed by two agents, one of whom is independent of the card games department, and transported directly to the cage or other secure room to be counted, recorded, and verified, prior to accepting the funds into cage accountability.

(h) Variances. The TGRA must establish the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

§ 543.11 [Reserved]

§ 543.12 What are the minimum internal control standards for gaming promotions and player tracking systems?

(a) Supervision. Supervision must be provided as needed for gaming promotions and player tracking by an agent(s) with authority equal to or greater than those being supervised.

(b) Gaming promotions. The rules of the gaming promotion must be displayed or made readily available to participants upon request. Gaming promotions rules require TGRA approval and must include the following:

(1) The rules of play;

(2) The nature and value of the associated prize(s) or cash award(s);

(3) Any restrictions or limitations on participant eligibility;

(4) The date(s), time(s), and location(s) for the associated promotional activity or activities;

(5) Any other restrictions or limitations, including any related to the claim of prizes or cash awards;

(6) The announcement date(s), time(s), and location(s) for the winning entry or entries; and

(7) Rules governing promotions offered across multiple gaming operations, third party sponsored promotions, and joint promotions involving third parties.

(c) Player tracking systems. (1) Changes to the player tracking systems, promotional accounts, promotion and external bonusing system parameters which control features such as the awarding of bonuses, the issuance of cashable credits, non-cashable credits, coupons and vouchers, must be performed under the authority of supervisory employees, independent of the department initiating the change. Alternatively, the changes may be performed by supervisory employees of the department initiating the change if sufficient documentation is generated and the propriety of the changes are randomly verified by supervisory employees independent of the department initiating the change on a monthly basis.

(2) All other changes to the player tracking system must be appropriately documented.

(d) Variances. The TGRA must establish the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

§ 543.13 What are the minimum internal control standards for complimentary services or items?

(a) Supervision. Supervision must be provided as needed for approval of complimentary services by an agent(s) with authority equal to or greater than those being supervised.

(b) Complimentary services and items include, but are not limited to, travel, lodging, food, beverages, or entertainment expenses provided, at the agent's discretion, directly to the patron by the gaming operation or indirectly to patrons on behalf of the gaming operation by a third party.

(c) Complimentary services or items. Controls must be established and procedures implemented to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls must include procedures for the following:

(1) Authorizing agents to approve the issuance of complimentary services or items, including levels of authorization;

(2) Limits and conditions on the approval and issuance of complimentary services or items;

(3) Modifying conditions or limits on the approval and issuance of complimentary services or items;

(4) Documenting and recording the authorization, issuance, and tracking of complimentary services or items, including cash and non-cash gifts;

(i) Complimentary issuance records must include the following for all complimentary items and services equal to or exceeding an amount established by the TGRA.

(A) Name of patron who received the complimentary service or item;

(B) Name(s) of issuer of the complimentary service or item;

(C) The actual cash value of the complimentary service or item;

(D) The type of complimentary service or item (food, beverage, etc.); and

(E) Date the complimentary service or item was issued.

(ii) [Reserved].

(d) Complimentary services and items records must be summarized and reviewed for proper authorization and compliance with established authorization thresholds.

(1) A detailed reporting of comp transactions that meet an established threshold approved by the TGRA must be prepared at least monthly.

(2) The detailed report must be forwarded to management for review.

(e) Variances. The TGRA must establish the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

§ 543.14 What are the minimum internal control standards for patron deposit accounts and cashless systems?

(a) Supervision. Supervision must be provided as needed for patron deposit accounts and cashless systems by an agent(s) with authority equal to or greater than those being supervised.

(b) Patron deposit accounts and cashless systems. (1) Controls must be established and procedures implemented for patron deposit accounts and cashless systems to prevent unauthorized access, misappropriation, forgery, theft, or fraud.

(2) Smart cards cannot maintain the only source of account data.

(3) Establishment of patron deposit accounts. The following standards apply when the patron establishes an account.

(i) The patron must appear at the gaming operation in person, at a designated area of accountability, and present valid government issued picture identification; and

(ii) An agent must examine the patron's identification and record the following information:

(A) Type, number, and expiration date of the identification;

(B) Patron's name;

(C) A unique account identifier;

(D) Date the account was opened; and

(E) The agent's name.

(4) The patron must sign the account documentation before the agent may activate the account.

(5) The agent or cashless system must provide the patron deposit account holder with a secure method of access.

(c) Patron deposits, withdrawals and adjustments. (1) Prior to the patron making a deposit or a withdrawal from a patron deposit account, the agent or cashless system must verify the patron deposit account, the patron identity, and availability of funds.

(2) Adjustments made to the patron deposit accounts must be performed by an agent.

(3) When a deposit, withdrawal, or adjustment is processed by an agent, a transaction record must be created containing the following information:

(i) Same document number on all copies;

(ii) Type of transaction, (deposit, withdrawal, or adjustment);

(iii) Name or other identifier of the patron;

(iv) The unique account identifier;

(v) Patron signature for withdrawals, unless a secured method of access is utilized;

(vi) For adjustments to the account, the reason for the adjustment;

(vii) Date and time of transaction;

(viii) Amount of transaction;

(ix) Nature of deposit, withdrawal, or adjustment (cash, check, chips); and

(x) Signature of the agent processing the transaction.

(4) When a patron deposits or withdraws funds from a patron deposit account electronically, the following must be recorded:

(i) Date and time of transaction;

(ii) Location (player interface, kiosk);

(iii) Type of transaction (deposit, withdrawal);

(iv) Amount of transaction; and

(v) The unique account identifier.

(5) Patron deposit account transaction records must be available to the patron upon reasonable request.

(6) If electronic funds transfers are made to or from a gaming operation bank account for patron deposit account funds, the bank account must be dedicated and may not be used for any other types of transactions.

(d) Variances. The TGRA must establish the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

§ 543.15 What are the minimum internal control standards for lines of credit?

(a) Supervision. Supervision must be provided as needed for lines of credit by an agent(s) with authority equal to or greater than those being supervised.

(b) Establishment of Lines of Credit Policy. (1) If a gaming operation extends lines of credit, controls must be established and procedures implemented to safeguard the assets of the gaming operation. Such controls must include a lines of credit policy including the following:

(i) A process for the patron to apply for, modify, and/or re-establish lines of credit, to include required documentation and credit line limit;

(ii) Authorization levels of credit issuer(s);

(iii) Identification of agents authorized to issue lines of credit;

(iv) A process for verifying an applicant's credit worthiness;

(v) A system for recording patron information; to include:

(A) Name, current address, and signature;

(B) Identification credential;

(C) Authorized credit line limit;

(D) Documented approval by an agent authorized to approve credit line limits;

(E) Date, time and amount of credit issuances and payments; and

(F) Amount of available credit.

(vi) A process for issuing lines of credit to include the following:

(A) Verifying the patron's identity;

(B) Notifying the patron of the lines of credit terms, including obtaining patron's written acknowledgment of the terms by signature;

(C) Completing a uniquely identified, multi-part, lines of credit issuance form, such as a marker or counter check, which includes the terms of the lines of credit transaction;

(D) Obtaining required signatures;

(E) Determining the amount of the patron's available lines of credit;

(F) Updating the credit balance record at the time of each transaction to assure that lines of credit issued are within the established limit and balance for that patron; and

(G) Requiring the agent issuing the lines of credit to be independent of the agent who authorized the lines of credit.

(vii) A policy establishing credit line limit exceptions to include the following:

(A) Identification of the agent(s) authorized to permit a credit line limit to be exceeded;

(B) Authorization thresholds; and

(C) Required documentation.

(viii) A policy governing increases and decreases to a patron's lines of credit account balances to include the following:

(A) Documentation and record keeping requirements;

(B) Independence between the department that receives the payment and the department that maintains custody of the credit balance for payments made by mail;

(C) Collections;

(D) Periodic audits and confirmation of balances; and

(E) If a collection agency is used, a process to ensure documentation of increases and decreases to the lines of credit account balances.

(ix) A policy governing write-offs and settlements to include:

(A) Identification of agent(s) authorized to approve write-offs and settlements;

(B) Authorization levels for write-offs and settlements of lines of credit instruments;

(C) Required documentation for write-offs and settlements;

(D) Independence between the agent who established the lines of credit and the agent writing off or settling the lines of credit instrument.

(E) Necessary documentation for the approval of write-offs and settlements and transmittal to the appropriate department for recording and deductibility.

(c) Variances. The TGRA must establish the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

§ 543.16 [Reserved]

§ 543.17 What are the minimum internal control standards for drop and count?

(a) Supervision. Supervision must be provided for drop and count as needed by an agent(s) with authority equal to or greater than those being supervised.

(b) Count Room Access. Controls must be established and procedures implemented to limit physical access to the count room to count team agents, designated staff, and other authorized persons. Such controls must include the following:

(1) Count team agents may not exit or enter the count room during the count except for emergencies or scheduled breaks.

(2) Surveillance must be notified whenever count room agents exit or enter the count room during the count.

(3) The count team policy, at a minimum, must address the transportation of extraneous items such as personal belongings, tool boxes, beverage containers, etc., into or out of the count room.

(c) Count team. Controls must be established and procedures implemented to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud. Such controls must include the following:

(1) For Tier A and B operations, all counts must be performed by at least two agents. For Tier C operations, all counts must be performed by at least three agents.

(2) For Tier A and B operations, at no time during the count can there be fewer than two count team agents in the count room until the drop proceeds have been accepted into cage/vault accountability. For Tier C operations, at no time during the count can there be fewer than three count team agents in the count room until the drop proceeds have been accepted into cage/vault accountability.

(3) For Tier A and B operations, count team agents must be rotated on a routine basis such that the count team is not consistently the same two agents more than four days per week. This standard does not apply to gaming operations that utilize a count team of more than two agents. For Tier C operations, count team agents must be rotated on a routine basis such that the count team is not consistently the same three agents more than four days per week. This standard does not apply to gaming operations that utilize a count team of more than three agents.

(4) Functions performed by count team agents must be rotated on a routine basis.

(5) Count team agents must be independent of the department being

counted and the cage/vault departments. An accounting agent may be used if there is an independent audit of all count documentation.

(d) Card game drop standards. Controls must be established and procedures implemented to ensure security of the drop process to prevent unauthorized access to gaming equipment and the drop, misappropriation of funds, forgery, theft, or fraud. Such controls must include the following:

(1) Surveillance must be notified when the drop is to begin so that surveillance may monitor the activities.

(2) Once the drop is started, it must continue until finished.

(3) At the end of each shift:

(i) All locked card game drop boxes must be removed from the tables by an agent independent of the card game shift being dropped;

(ii) For any tables opened during the shift, a separate drop box must be placed on each table, or a gaming operation may utilize a single drop box with separate openings and compartments for each shift; and

(iii) Card game drop boxes must be transported directly to the count room or other equivalently secure area by a minimum of two agents, at least one of whom is independent of the card game shift being dropped, until the count takes place.

(4) Document which tables were not open during a shift and therefore not part of the drop.

(5) All card game drop boxes must be posted with a number corresponding to a permanent number on the gaming table and marked to indicate game, table number, and shift, if applicable.

(e) Player interface and financial instrument drop standards.

(1) Surveillance must be notified when the drop is to begin so that surveillance may monitor the activities. The player interface financial instrument storage component drop begins when the first financial instrument storage component is removed.

(2) A minimum of two individuals must be involved in the removal of the player interface storage component drop, at least one of whom is independent of the player interface department.

(3) All financial instrument storage components may be removed only at the time previously designated by the gaming operation and reported to the TGRA. If an emergency drop is required, surveillance must be notified before the drop is conducted and the TGRA must be informed within a timeframe approved by the TGRA.

(4) The financial instrument storage components must be removed by an agent independent of the player interface department, then transported directly to the count room or other equivalently secure area with comparable controls and locked in a secure manner until the count takes place.

(i) Security must be provided for the financial instrument storage components removed from the player interfaces and awaiting transport to the count room.

(ii) Transportation of financial instrument storage components must be performed by a minimum of two agents, at least one of whom is independent of the player interface department.

(5) All financial instrument storage components must be posted with a number corresponding to a permanent number on the player interface.

(f) Card game count standards. (1) Access to stored, full card game drop boxes must be restricted to authorized members of the drop and count teams.

(2) The card game count must be performed in a soft count room or other equivalently secure area with comparable controls.

(3) Access to the count room during the count must be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(4) If counts from various revenue centers occur simultaneously in the count room, procedures must be in effect to prevent the commingling of funds from different revenue centers.

(5) Count equipment and systems must be tested, with the results documented, at minimum before the first count begins to ensure the accuracy of the equipment.

(6) The card game drop boxes must be individually emptied and counted so as to prevent the commingling of funds between boxes until the count of the box has been recorded.

(i) The count of each box must be recorded in ink or other permanent form of recordation.

(ii) For counts that do not utilize a currency counter, a second count must be performed by a member of the count team who did not perform the initial count. Separate counts of chips and tokens must always be performed by members of the count team.

(iii) Coupons or other promotional items not included in gross revenue must be recorded on a supplemental document by either the count team members or accounting personnel. All single-use coupons must be cancelled daily by an authorized agent to prevent improper recirculation.

(iv) If a currency counter interface is used:

(A) It must be adequately restricted to prevent unauthorized access; and

(B) The currency drop figures must be transferred via direct communications line or computer storage media to the accounting department.

(7) If currency counters are utilized, a count team member must observe the loading and unloading of all currency at the currency counter, including rejected currency.

(8) Two counts of the currency rejected by the currency counter must be recorded per table, as well as in total. Posting rejected currency to a nonexistent table is prohibited.

(9) Card game drop boxes, when empty, must be shown to another member of the count team, to another agent observing the count, or to surveillance, provided that the count is monitored in its entirety by an agent independent of the count.

(10) Procedures must be implemented to ensure that any corrections to the count documentation are permanent, identifiable and that the original, corrected information remains legible. Corrections must be verified by two count team agents.

(11) The count sheet must be reconciled to the total drop by a count team member who may not function as the sole recorder, and variances must be reconciled and documented.

(12) All count team agents must sign the report attesting to their participation in the count.

(13) A final verification of the total drop proceeds, before transfer to cage/vault, must be performed by at least two agents, one of whom is a supervisory count team member, and one a count team agent.

(i) Final verification must include a comparison of currency counted totals against the currency counter/system report, if any counter/system is used.

(ii) Any unresolved variances must be documented, and the documentation must remain part of the final count record forwarded to accounting.

(iii) This verification does not require a complete recount of the drop proceeds, but does require a review sufficient to verify the total drop proceeds being transferred.

(iv) The two agents must sign the report attesting to the accuracy of the total drop proceeds verified.

(v) All drop proceeds and cash equivalents that were counted must be submitted to the cage or vault cashier (who must be independent of the count team) or to an agent independent of the

revenue generation source and the count process for verification. The cashier or agent must certify, by signature, the amount of the drop proceeds delivered and received. Any unresolved variances must be reconciled, documented, and/or investigated by accounting/revenue audit.

(14) After certification by the receiver of the funds, the drop proceeds must be transferred to the cage/vault.

(i) The count documentation and records must not be transferred to the cage/vault with the drop proceeds.

(ii) The cage/vault agent must have no knowledge or record of the drop proceeds total before it is verified.

(iii) All count records must be forwarded to accounting or adequately secured and accessible only by accounting agents.

(iv) The cage/vault agent receiving the transferred drop proceeds must sign the report attesting to the verification of the total received.

(v) Any unresolved variances between total drop proceeds recorded on the count room report and the cage/vault final verification during transfer must be documented and investigated.

(15) The count sheet, with all supporting documents, must be delivered to the accounting department by a count team member or an agent independent of the cashiers department. Alternatively, it may be adequately secured so that it is only accessible to accounting agents.

(16) The cage/vault agent must sign the count sheet, or other reconciling document, and thereby assume accountability of the currency drop proceeds, ending the count.

(g) Player interface financial instrument count standards.

(1) Access to stored full financial instrument storage components must be restricted to:

(i) Authorized members of the drop and count teams; and

(ii) In an emergency, authorized persons for the resolution of a problem.

(2) The player interface financial instrument count must be performed in a count room or other equivalently secure area with comparable controls.

(3) Access to the count room during the count must be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(4) If counts from various revenue centers occur simultaneously in the count room, procedures must be in effect that prevent the commingling of funds from different revenue centers.

(5) The count team must not have access to bill-in meter amounts until after the count is completed and the drop proceeds are accepted into the cage/vault accountability.

(6) Count equipment and systems must be tested, with the results documented, at minimum before the first count begins, to ensure the accuracy of the equipment.

(7) If a currency counter interface is used:

(i) It must be adequately restricted to prevent unauthorized access; and

(ii) The currency drop figures must be transferred via direct communications line or computer storage media to the accounting department.

(8) The financial instrument storage components must be individually emptied and counted so as to prevent the commingling of funds between storage components until the count of the storage component has been recorded.

(i) The count of each storage component must be recorded in ink or other permanent form of recordation.

(ii) Coupons or other promotional items not included in gross revenue may be recorded on a supplemental document by the count team members or accounting personnel. All single-use coupons must be cancelled daily by an authorized agent to prevent improper recirculation.

(9) If currency counters are utilized, a count team member must observe the loading and unloading of all currency at the currency counter, including rejected currency.

(10) Two counts of the currency rejected by the currency counter must be recorded per interface terminal as well as in total. Rejected currency must be posted to the interface terminal from which it was collected.

(11) Storage components, when empty, must be shown to another member of the count team, to another agent who is observing the count, or to surveillance, provided that the count is monitored in its entirety by an agent independent of the count.

(12) Procedures must be implemented to ensure that any corrections to the count documentation are permanent, identifiable and the original, corrected information remains legible. Corrections must be verified by two count team agents.

(13) The count sheet must be reconciled to the total drop by a count team member who may not function as the sole recorder, and variances must be reconciled and documented. This standard does not apply to vouchers removed from the financial instrument storage components.

(14) All count team agents must sign the report attesting to their participation in the count.

(15) A final verification of the total drop proceeds, before transfer to cage/vault, must be performed by at least two agents, one of whom is a supervisory count team member and the other a count team agent.

(i) Final verification must include a comparison of currency counted totals against the currency counter/system report, if a counter/system is used.

(ii) Any unresolved variances must be documented and the documentation must remain a part of the final count record forwarded to accounting.

(iii) This verification does not require a complete recount of the drop proceeds but does require a review sufficient to verify the total drop proceeds being transferred.

(iv) The two agents must sign the report attesting to the accuracy of the total drop proceeds verified.

(v) All drop proceeds and cash equivalents that were counted must be turned over to the cage or vault cashier (who must be independent of the count team) or to an agent independent of the revenue generation and the count process for verification. Such cashier or agent must certify, by signature, the amount of the drop proceeds delivered and received. Any unresolved variances must be reconciled, documented, and/or investigated by accounting/revenue audit.

(16) After certification by the recipient of the funds, the drop proceeds must be transferred to the cage/vault.

(i) The count documentation and records must not be transferred to the cage/vault with the drop proceeds.

(ii) The cage/vault agent may have no knowledge or record of the drop proceeds total before it is verified.

(iii) All count records must be forwarded to accounting adequately secured and accessible only by accounting agents.

(iv) The cage/vault agent receiving the transferred drop proceeds must sign the report attesting to the verification of the total received.

(v) Any unresolved variances between total drop proceeds recorded on the count room report and the cage/vault final verification during transfer must be documented and investigated.

(17) The cage/vault agent must sign the count sheet, or other reconciling document, thereby assuming accountability of the currency drop proceeds, and ending the count.

(18) The count sheet, with all supporting documents, must be delivered to the accounting department

by a count team member or agent independent of the cashiers department. Alternatively, it may be adequately secured and accessible only by accounting department.

(h) Controlled keys. Controls must be established and procedures implemented to safeguard the use, access, and security of keys in accordance with the following:

(1) Each of the following requires a separate and unique key lock or alternative secure access method:

(i) Drop cabinet;

(ii) Drop box release;

(iii) Drop box content; and

(iv) Storage racks and carts used for the drop.

(2) Access to and return of keys or equivalents must be documented with the date, time, and signature or other unique identifier of the agent accessing or returning the key(s).

(i) For Tier A and B operations, at least two (2) drop team agents are required to be present to access and return keys. For Tier C operations, at least three (3) drop team agents are required to be present to access and return keys.

(ii) For Tier A and B operations, at least two (2) count team agents are required to be present at the time count room and other count keys are issued for the count. For Tier C operations, at least three (two for card game drop box keys in operations with three tables or fewer) count team agents are required to be present at the time count room and other count keys are issued for the count.

(3) Documentation of all keys, including duplicates, must be maintained, including:

(i) Unique identifier for each individual key;

(ii) Key storage location;

(iii) Number of keys made, duplicated, and destroyed; and

(iv) Authorization and access.

(4) Custody of all keys involved in the drop and count must be maintained by a department independent of the count and the drop agents as well as those departments being dropped and counted.

(5) Other than the count team, no agent may have access to the drop box content keys while in possession of storage rack keys and/or release keys.

(6) Other than the count team, only agents authorized to remove drop boxes are allowed access to drop box release keys.

(7) Any use of keys at times other than the scheduled drop and count must be properly authorized and documented.

(8) Emergency manual keys, such as an override key, for computerized, electronic, and alternative key systems must be maintained in accordance with the following:

(i) Access to the emergency manual key(s) used to access the box containing the player interface drop and count keys requires the physical involvement of at least three agents from separate departments, including management. The date, time, and reason for access, must be documented with the signatures of all participating persons signing out/in the emergency manual key(s);

(ii) The custody of the emergency manual keys requires the presence of two agents from separate departments from the time of their issuance until the time of their return; and

(iii) Routine physical maintenance that requires access to the emergency manual key(s), and does not involve accessing the player interface drop and count keys, only requires the presence of two agents from separate departments. The date, time, and reason for access must be documented with the signatures of all participating agents signing out/in the emergency manual key(s).

(i) Variances. The TGRA must establish the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

§ 543.18 What are the minimum internal control standards for the cage, vault, kiosk, cash and cash equivalents?

(a) Supervision. Supervision must be provided as needed for cage, vault, kiosk, and other operations using cash or cash equivalents by an agent(s) with authority equal to or greater than those being supervised.

(b) Cash and cash equivalents. Controls must be established and procedures implemented to prevent unauthorized access, misappropriation, forgery, theft, or fraud.

(c) Personal checks, cashier's checks, traveler's checks, payroll checks, and counter checks.

(1) If personal checks, cashier's checks, traveler's checks, payroll checks or counter checks are cashed at the cage, the controls must provide for security and integrity. For each check cashing transaction, the agent(s) conducting the transaction must:

(i) Verify the patron's identity;

(ii) Examine the check to ensure it includes the patron's name, current address, and signature;

(iii) For personal checks, verify the patron's check cashing authority and record the source and results in accordance with management policy;

(iv) If a check guarantee service is used to guarantee the transaction and the procedures required by the check guarantee service are followed, then the above requirements do not apply.

(2) When counter checks are issued, the following must be included on the check:

(i) The patron's name and signature;

(ii) The dollar amount of the counter check;

(iii) Patron's bank name, bank routing, and account numbers;

(iv) Date of issuance; and

(v) Signature of the agent approving the counter check transaction.

(3) Personal checks, payroll checks, and counter checks that are not deposited in the normal course of business, as established by management, (held checks) are subject to § 543.15 credit standards.

(4) When traveler's checks or other guaranteed drafts, such as cashier's checks, are presented, the cashier must comply with the examination and documentation procedures as required by the issuer.

(5) If a third party check cashing or guarantee service is used, the examination and documentation procedures required by the service provider apply, unless otherwise provided by tribal law or regulation.

(d) Cage and vault accountability. (1) All transactions that flow through the cage must be summarized for each work shift of the cage and must be supported by documentation.

(2) Increases and decreases to the total cage inventory must be verified, supported by documentation, and recorded. For any individual increase/decrease that exceeds $100, documentation must include the date and shift, the purpose of the increase/decrease, the agent(s) completing the transaction, and the person or department receiving the cage funds (for decreases only).

(3) The cage and vault inventories (including coin rooms/vaults) must be counted independently by at least two agents, attested to by signature, and recorded in ink or other permanent form at the end of each shift during which the activity took place. These agents must make individual counts to compare for accuracy and maintain individual accountability. All discrepancies must be noted and investigated.

(4) The gaming operation must establish and comply with a minimum bankroll formula to ensure the gaming operation maintains cash or cash equivalents (on hand and in the bank, if readily accessible) in an amount sufficient to satisfy obligations to the gaming operation's patrons as they are incurred.

(e) Kiosks. (1) Kiosks shall be maintained on an imprest basis on the cage accountability and shall be counted independently by at least two agents and reconciled each time the kiosk is reimpressed.

(2) Currency cassettes shall be imprest by an agent and verified independently by at least one agent, both of whom shall sign each cassette.

(3) Imprest cassettes shall be secured with a lock or tamper resistant seal and, if not placed inside a kiosk, shall be stored in a secured area of the cage/vault.

(4) The TGRA or the gaming operation, subject to the approval of the TGRA, shall develop and implement security controls over the kiosks, *i.e.* forced entry, evidence of any entry, and protection of circuit boards containing programs.

(5) With regard to cashless systems, the TGRA or the gaming operation, subject to the approval of the TGRA, shall develop and implement procedures to ensure that communications between the kiosk and system are secure and functioning.

(6) Kiosks or equipment associated therewith must be capable of producing the following reports upon demand:

(i) Recap of the disposition of wagering instruments accepted, which must be available by reconciliation period (day, shift or drop cycle); and

(ii) Reconciliation report that includes the current cash balance, current balance of the wagering instruments by dollar amount and by number of items and the reconciliation period date and time.

(f) Patron deposited funds. If a gaming operation permits a patron to deposit funds for safekeeping and/or front money purposes with the gaming operation at the cage, and when transfers of patron deposited funds are transferred to a gaming area for wagering purposes, the following standards apply:

(1) The receipt or withdrawal of a patron deposit must be documented, with a copy given to the patron and a copy remaining in the cage.

(2) Both copies of the document of receipt or withdrawal must contain the following information:

(i) Same receipt number on each copy;

(ii) Patron's name and signature;

(iii) Date of receipt and withdrawal;

(iv) Dollar amount of deposit/withdrawal (for foreign currency transactions include the US dollar equivalent, the name of the foreign country, and the amount of the foreign currency by denomination);

(v) Nature of deposit/withdrawal; and

(vi) Name and signature of the agent who conducted the transaction.

(3) The following procedures must be established and complied with for front money deposits:

(i) Maintaining a detailed record by patron name and date of all funds on deposit;

(ii) Maintaining a current balance of all patron deposits that are in the cage/vault inventory or accountability; and

(iii) Reconciling this current balance with the deposits and withdrawals at least daily.

(g) Promotional payments, drawings, and giveaway programs. The following procedures must apply to any payment resulting from a promotional payment, drawing, or giveaway program disbursed by the cage department or any other department. This section does not apply to programs that are addressed elsewhere in this part.

(1) Payments that are less than $100 must be documented to support the cage accountability.

(2) Payments of $100 or more must be documented at the time of the payment, and documentation must include the following:

(i) Date and time;

(ii) Dollar amount of payment or description of personal property;

(iii) Reason for payment; and

(iv) Patron's name (drawings only).

(v) Signature(s) of at least two agents verifying, authorizing, and completing the promotional payment with the patron, except for computerized systems that validate and print the dollar amount of the payment on a computer generated form, only one signature is required.

(h) Chip(s) and token(s). Controls must be established and procedures implemented to ensure accountability of chip and token inventory. Such controls must include, but are not limited to, the following:

(1) Purchase;

(2) Receipt;

(3) Inventory;

(4) Storage; and

(5) Destruction.

(i) Cage and vault access. Controls must be established and procedures implemented to prevent unauthorized access, misappropriation, forgery, or fraud. Such controls must include the following:

(1) Restricting physical access to the cage to cage department agents, designated staff, and other authorized persons; and

(2) Limiting transportation of extraneous items such as personal belongings, tool boxes, beverage containers, etc., into and out of the cage.

(j) Variances. The TGRA must establish the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

§ 543.19 [Reserved]

§ 543.20 What are the minimum internal control standards for information technology and information technology data?

(a) Supervision.

(1) Controls must identify the supervisory agent in the department or area responsible for ensuring that the department or area is operating in accordance with established policies and procedures.

(2) The supervisory agent must be independent of the operation of Class II games.

(3) Controls must ensure that duties are adequately segregated and monitored to detect procedural errors and to prevent the concealment of fraud.

(4) Internal controls must require that all personnel having access to Class II gaming systems have no signatory authority over financial instruments and payout forms, and are independent of and restricted from access to:

(i) Financial instruments; and

(ii) Accounting, audit, and ledger entries.

(b) As used in this section only, a system is any computerized system that is essential to the gaming environment. This includes, but is not limited to, the server and peripherals for Class II gaming system, accounting, surveillance, essential phone system, and door access and warning systems.

(c) Class II gaming systems' logical and physical controls. Controls must be established and procedures implemented to ensure adequate:

(1) Control of physical and logical access to the information technology environment, including accounting, voucher, cashless and player tracking, among others used in conjunction with Class II gaming;

(2) Physical and logical protection of storage media and its contents, including recovery procedures;

(3) Access credential control methods;

(4) Record keeping and audit processes; and

(5) Departmental independence, including, but not limited to, means to restrict agents that have access to information technology from having access to financial instruments.

(d) Independence. All agents having access to the Class II information technology environment and/or data are independent of and restricted from access to:

(1) Financial instruments;

(2) Signatory authority over financial instruments and payouts forms; and

(3) Accounting, audit, and ledger entries.

(e) Physical security. (1) Internal controls must require that the information technology environment and infrastructure be maintained in a secured physical location such that access is restricted to authorized agents only.

(2) Access devices to the systems' secured physical location, such as keys, cards, or fobs, must be controlled by an independent agent.

(3) Access to the systems' secured physical location must be restricted to agents in accordance with established policies and procedures, which must include maintaining and updating a record of agents granted access privileges.

(4) Communications to and from Network Communication Equipment must be physically secured from unauthorized access.

(f) Logical security. (1) Security standards and procedures must be designed and implemented to protect all systems and to ensure that access to the following is restricted and secured:

(i) Systems' software and application programs;

(ii) Data associated with Class II gaming; and

(iii) Communications facilities, systems, and information transmissions associated with Class II gaming systems.

(2) Unused services and non-essential ports must be disabled whenever possible.

(3) Procedures must be implemented to ensure that all activity performed on systems is restricted and secured from unauthorized access, and logged.

(4) Communications to and from systems via Network Communication Equipment must be logically secured from unauthorized access.

(g) User controls.(1) Systems, including application software, must be secured with passwords or other means for authorizing access.

(2) Management personnel or agents independent of the department being controlled must assign and control access to system functions.

(3) Access credentials such as passwords, PINs, or cards must be controlled as follows:

(i) Each user must have his or her own individual access credential;

(ii) Access credentials must be changed at an established interval approved by the TGRA; and

(iii) Access credential records must be maintained either manually or by systems that automatically record access changes and force access credential changes, including the following information for each user:

(A) User's name;

(B) Date the user was given access and/or password change; and

(C) Description of the access rights assigned to user.

(4) Lost or compromised access credentials must be deactivated, secured or destroyed within an established time period approved by the TGRA.

(5) Access credentials of terminated users must be deactivated within an established time period approved by the TGRA.

(6) Only authorized agents may have access to inactive or closed accounts of other users, such as player tracking accounts and terminated user accounts.

(h) Installations and/or modifications. (1) Only TGRA authorized or approved systems and modifications may be installed.

(2) Records must be kept of all new installations and/or modifications to Class II gaming systems. These records must include, at a minimum:

(i) The date of the installation or change;

(ii) The nature of the installation or change such as new software, server repair, significant configuration changes;

(iii) Evidence of verification that the installation or the changes are approved; and

(iv) The identity of the agent(s) performing the installation/modification.

(3) Documentation must be maintained, such as manuals, user guides, describing the systems in use and the operation, including hardware.

(i) Remote access. (1) Agents may be granted remote access for system support, provided that each access session is documented and maintained at the place of authorization. The documentation must include:

(i) Name of agent authorizing the access;

(ii) Name of agent accessing the system;

(iii) Verification of the agent's authorization;

(iv) Reason for remote access;

(v) Description of work to be performed;

(vi) Date and time of start of end-user remote access session; and

(vii) Date and time of conclusion of end-user remote access session.

(2) All remote access must be performed via a secured method.

(j) Incident monitoring and reporting. (1) Documented procedures must be implemented for responding to, monitoring, investigating, resolving, documenting, and reporting security incidents associated with information technology systems.

(2) All security incidents must be responded to within an established time period approved by the TGRA and formally documented.

(k) Data backups. (1) Controls must include adequate backup, including, but not limited to, the following:

(i) Daily data backup of critical information technology systems;

(ii) Data backup of critical programs or the ability to reinstall the exact programs as needed;

(iii) Secured storage of all backup data files and programs, or other adequate protection;

(iv) Mirrored or redundant data source; and

(v) Redundant and/or backup hardware.

(2) Controls must include recovery procedures, including, but not limited to, the following:

(i) Data backup restoration;

(ii) Program restoration; and

(iii) Redundant or backup hardware restoration.

(3) Recovery procedures must be tested on a sample basis at specified intervals at least annually. Results must be documented.

(4) Backup data files and recovery components must be managed with at least the same level of security and access controls as the system for which they are designed to support.

(l) Software downloads. Downloads, either automatic or manual, must be performed in accordance with 25 CFR 547.12.

(m) Verifying downloads. Following download of any game software, the Class II gaming system must verify the downloaded software using a software signature verification method. Using any method it deems appropriate, the TGRA must confirm the verification.

§ 543.21 What are the minimum internal control standards for surveillance?

(a) Supervision. Supervision must be provided as needed for surveillance by an agent(s) with authority equal to or greater than those being supervised.

(b) Surveillance equipment and control room(s). Controls must be established and procedures implemented to prevent unauthorized access and/or activities, misappropriation, forgery, theft, or fraud. Such controls must include the following:

(1) For Tier A, the surveillance system must be maintained and operated from a secured location, such as a locked cabinet. For Tier B and C, the surveillance system must be maintained and operated from a staffed surveillance operation room(s).

(2) The surveillance operation room(s) must be secured to prevent unauthorized entry.

(3) Access to the surveillance operation room(s) must be limited to

surveillance agents and other authorized persons.

(4) Surveillance operation room(s) access logs must be maintained.

(5) Surveillance operation room equipment must have total override capability over all other satellite surveillance equipment located outside the surveillance operation room.

(6) Power loss to the surveillance system.

(i) For Tier A, in the event of power loss to the surveillance system, alternative security procedures, such as additional supervisory or security agents, must be implemented immediately.

(ii) For Tier B and C, in the event of power loss to the surveillance system, an auxiliary or backup power source must be available and capable of providing immediate restoration of power to the surveillance system to ensure that surveillance agents can observe all areas covered by dedicated cameras.

(7) The surveillance system must record an accurate date and time stamp on recorded events. The displayed date and time must not significantly obstruct the recorded view.

(8) All surveillance agents must be trained in the use of the equipment, games, and house rules.

(9) Each camera required by the standards in this section must be installed in a manner that will prevent it from being readily obstructed, tampered with, or disabled.

(10) The surveillance system must:

(i) Have the capability to display all camera views on a monitor;

(ii) Include sufficient numbers of recording devices to record the views of all cameras required by this section;

(iii) Record all camera views; and

(iv) For Tier B and C only, include sufficient numbers of monitors to simultaneously display gaming and count room activities.

(11) A periodic inspection of the surveillance systems must be conducted. When a malfunction of the surveillance system is discovered, the malfunction and necessary repairs must be documented and repairs initiated within seventy-two (72) hours.

(i) If a dedicated camera malfunctions, alternative security procedures, such as additional supervisory or security agents, must be implemented immediately.

(ii) The TGRA must be notified of any surveillance system and/or camera(s) that have malfunctioned for more than twenty-four (24) hours and the alternative security measures being implemented.

(c) Additional surveillance requirements. With regard to the following functions, controls must also include:

(1) Surveillance of the jackpot meter for Class II gaming systems:

(2) Manual bingo: (i) For manual draws, the surveillance system must monitor the bingo ball drawing device or mechanical random number generator, which must be recorded during the course of the draw by a dedicated camera to identify the numbers or other designations drawn; and

(ii) The surveillance system must monitor and record the activities of the bingo game, including drawing, calling, and entering the balls, numbers or other designations drawn.

(3) Card games: (i) Except for card game tournaments, a dedicated camera(s) with sufficient clarity must be used to provide:

(A) An overview of the activities on each card table surface, including card faces and cash and/or cash equivalents;

(B) An overview of card game activities, including patrons and dealers; and

(C) An unobstructed view of all posted progressive pool amounts.

(ii) For card game tournaments, a dedicated camera(s) must be used to provide an overview of tournament activities, including entrances/exits and any area where cash or cash equivalents are exchanged.

(4) Cage and vault: (i) The surveillance system must monitor and record a general overview of activities occurring in each cage and vault area with sufficient clarity to identify individuals within the cage and patrons and staff members at the counter areas and to confirm the amount of each cash transaction;

(ii) Each cashier station must be equipped with one (1) dedicated overhead camera covering the transaction area; and

(iii) The cage or vault area in which fill and credit transactions occur must be monitored and recorded by a dedicated camera or motion activated dedicated camera that provides coverage with sufficient clarity to identify the chip values and the amounts on the fill and credit slips. Controls provided by a computerized fill and credit system constitute an adequate alternative to viewing the amounts on the fill and credit slips.

(5) Count rooms: (i) The surveillance system must monitor and record with sufficient clarity a general overview of all areas where currency or coin may be stored or counted; and

(ii) The surveillance system must provide coverage of scales of sufficient clarity to view any attempted manipulation of the recorded data.

(d) Reporting Requirements. TGRA-approved procedures must be implemented for reporting suspected crimes and suspicious activity.

(e) Recording Retention. Controls must be established and procedures implemented that include the following:

(1) All recordings required by this section must be retained for a minimum of seven days; and

(2) Suspected crimes, suspicious activity, or detentions by security personnel discovered within the initial retention period must be copied and retained for a time period, not less than one year.

(f) Logs. Logs must be maintained and demonstrate the following:

(1) Compliance with the storage, identification, and retention standards required in this section;

(2) Each malfunction and repair of the surveillance system as defined in this section; and

(3) Activities performed by surveillance agents.

§ 543.22 [Reserved]

§ 543.23 What are the minimum internal control standards for audit and accounting?

(a) Conflicts of standards. When establishing SICS, the gaming operation should review, and consider incorporating, other external standards such as GAAP, GAAS, and standards promulgated by GASB and FASB. In the event of a conflict between the MICS and the incorporated external standards, the external standards prevail.

(b) Accounting. Controls must be established and procedures implemented to safeguard assets and ensure each gaming operation:

(1) Prepares accurate, complete, legible, and permanent records of all transactions pertaining to gaming revenue and activities for operational accountability.

(2) Prepares general accounting records on a double-entry system of accounting, maintaining detailed, supporting, subsidiary records, and ensures the following activities are performed:

(i) Record gaming activity transactions in an accounting system to identify and track all revenues, expenses, assets, liabilities, and equity;

(ii) Record all markers, IOU's, returned checks, held checks, or other similar credit instruments;

(iii) Record journal entries prepared by the gaming operation and by its independent accountants;

(iv) Prepare income statements and balance sheets;

(v) Prepare appropriate subsidiary ledgers to support the balance sheet;

(vi) Prepare, review, and maintain accurate financial statements;

(viii) Prepare transactions in accordance with management's general and specific authorization only;

(ix) Record transactions to facilitate proper recording of gaming revenue and fees, and to maintain accountability of assets;

(x) Compare recorded accountability for assets to actual assets at periodic intervals, and take appropriate action with respect to any discrepancies;

(xi) Segregate functions, duties, and responsibilities in accordance with sound business practices;

(xii) Prepare minimum bankroll calculations; and

(xiii) Maintain and preserve all financial records and relevant supporting documentation.

(c) Internal audit. Controls must be established and procedures implemented to ensure that:

(1) Internal auditor(s) perform audits of each department of a gaming operation, at least annually, to review compliance with TICS, SICS, and these MICS, which include at least the following areas:

(i) Bingo, including supervision, bingo cards, bingo card sales, draw, prize payout; cash and equivalent controls, technological aids to the play of bingo, operations, vouchers, and revenue audit procedures;

(ii) Pull tabs, including, supervision, pull tab inventory, pull tab sales, winning pull tabs, pull tab operating funds, statistical records, and revenue audit procedures;

(iii) Card games, including supervision, exchange or transfers, playing cards, shill funds, reconciliation of card room bank, posted rules, and promotional progressive pots and pools;

(iv) Gaming promotions and player tracking procedures, including supervision, gaming promotion rules and player tracking systems;

(v) Complimentary services or items, including procedures for issuing, authorizing, redeeming, and reporting complimentary service items;

(vi) Patron deposit accounts and cashless systems procedures, including supervision, patron deposit accounts and cashless systems, as well as patron deposits, withdrawals and adjustments;

(vii) Lines of credit procedures, including establishment of lines of credit policy;

(viii) Drop and count standards, including supervision, count room access, count team, card game drop standards, player interface and financial instrument drop standards, card game count standards, player interface financial instrument count standards, and controlled keys;

(ix) Cage, vault, cash and cash equivalent procedures, including supervision, cash and cash equivalents, personal checks, cashier's checks, traveler's checks, payroll checks, and counter checks, cage and vault accountability, kiosks, patron deposited funds, promotional payouts, drawings, and giveaway programs, chip and token standards, and cage and vault access;

(x) Information technology, including supervision, class II gaming systems' logical and physical controls, independence, physical security, logical security, user controls, installations and/or modifications, remote access, incident monitoring and reporting, data back-ups, software downloads, and verifying downloads;

(xi) Accounting standards, including accounting records, maintenance and preservation of financial records and relevant supporting documentation.

(2) Internal auditor(s) are independent of gaming operations with respect to the departments subject to audit (auditors internal to the operation, officers of the TGRA, or outside CPA firm may perform this function).

(3) Internal auditor(s) report directly to the Tribe, TGRA, audit committee, or other entity designated by the Tribe.

(4) Documentation such as checklists, programs, reports, etc. is prepared to evidence all internal audit work and follow-up performed as it relates to compliance with TICS, SICS, and these MICS, including all instances of noncompliance.

(5) Audit reports are maintained and made available to the Commission upon request and must include the following information:

(i) Audit objectives;

(ii) Audit procedures and scope;

(iii) Findings and conclusions;

(iv) Recommendations, if applicable; and

(v) Management's response.

(6) All material exceptions resulting from internal audit work are investigated and resolved and the results are documented.

(7) Internal audit findings are reported to management, responded to by management stating corrective measures to be taken, and included in the report delivered to management, the Tribe, TGRA, audit committee, or other entity designated by the Tribe for corrective action.

(8) Follow-up observations and examinations must be performed to verify that corrective action has been taken regarding all instances of non-compliance cited by internal audit, the independent accountant, the Commission, and/or the TGRA. The verification must be performed within six (6) months following the date of notification.

(d) Annual requirements. (1) Agreed upon procedures. A CPA must be engaged to perform an assessment to verify whether the gaming operation is in compliance with these MICS, and/or the TICS or SICS if they provide at least the same level of controls as the MICS. The assessment must be performed in accordance with agreed upon procedures and the most recent versions of the Statements on Standards for Attestation Engagements and Agreed-Upon Procedures Engagements (collectively ''SSAEs''), issued by the American Institute of Certified Public Accountants.

(2) The tribe must submit two copies of the agreed-upon procedures report to the Commission within 120 days of the gaming operation's fiscal year end in conjunction with the submission of the annual financial audit report required pursuant to 25 CFR part 571.

(3) Review of internal audit.(i) The CPA must determine compliance by the gaming operation with the internal audit requirements in paragraph (d) above by:

(A) Completing the internal audit checklist;

(B) Ensuring that the internal auditor completed checklists for each gaming department of the operation;

(C) Verifying that any areas of non-compliance have been identified;

(D) Ensuring that audit reports are completed and include responses from management; and

(E) Verifying that appropriate follow-up on audit findings has been conducted and necessary corrective measures have been taken to effectively mitigate the noted risks.

(ii) If the CPA determines that the internal audit procedures performed during the fiscal year have been properly completed, the CPA may rely on the work of the internal audit for the completion of the MICS checklists as they relate to the standards covered by this part.

(4) Report format. The SSAEs are applicable to agreed-upon procedures engagements required in this part. All noted instances of noncompliance with the MICS and/or the TICS or SICS, if they provide the same level of controls as the MICS, must be documented in the report with a narrative description, the number of exceptions and sample size tested.

§ 543.24 What are the minimum internal control standards for revenue audit?

(a) Independence. Audits must be performed by agent(s) independent of the transactions being audited.

(b) Documentation. The performance of revenue audit procedures, the exceptions noted, and the follow-up of all revenue audit exceptions must be documented and maintained.

(c) Controls must be established and procedures implemented to audit of each of the following operational areas:

(1) Bingo. (i) At the end of each month, verify the accuracy of the ending balance in the bingo control log by reconciling it with the bingo paper inventory. Investigate and document any variance noted.

(ii) Daily, recalculate supporting records and documents to reconcile to summarized paperwork (*e.g.* total sales and payouts per shift and/or day).

(iii) At least monthly, review variances related to bingo accounting data, which must include, at a minimum, any variance noted by the Class II gaming system for cashless transactions in and out, electronic funds transfer in and out, external bonus payouts, vouchers out and coupon promotion out. Investigate and document any variance noted.

(iv) At least monthly, review statistical reports for any deviations from the mathematical expectations exceeding a threshold established by the TGRA. Investigate and document any deviations compared to the mathematical expectations required to be submitted per § 547.4.

(v) At least monthly, take a random sample, foot the vouchers redeemed and trace the totals to the totals recorded in the voucher system and to the amount recorded in the applicable cashier's accountability document.

(2) Pull tabs. (i) Daily, verify the amount of winning pull tabs redeemed each day.

(ii) At the end of each month, verify the accuracy of the ending balance in the pull tab control by reconciling the pull tabs on hand. Investigate and document any variance noted.

(iii) At least monthly, compare for reasonableness the amount of pull tabs sold from the pull tab control log to the amount of revenue recognized.

(iv) At least monthly, review statistical reports for any deviations exceeding a specified threshold, as defined by the TGRA. Investigate and document any large and unusual fluctuations noted.

(3) Card games. (i) Daily, reconcile the amount indicated on the progressive sign/meter to the cash counted or received by the cage and the payouts made for each promotional progressive pot and pool. This reconciliation must be sufficiently documented, including substantiation of differences, adjustments, etc.

(ii) At least monthly, review all payouts for the promotional progressive pots, pools, or other promotions to determine proper accounting treatment and that they are conducted in accordance with conditions provided to the customers.

(iii) At least weekly, reconcile all contest/tournament entry and payout forms to the dollar amounts recorded in the appropriate accountability document.

(4) Gaming promotions and player tracking. (i) At least monthly, perform procedures to ensure that promotional payments, drawings, and giveaway programs are conducted in accordance with information provided to the customers.

(ii) At least one day per quarter, for computerized player tracking systems, perform the following procedures:

(A) Review all point addition/deletion authorization documentation, other than for point additions/deletions made through an automated process, for propriety;

(B) Review exception reports, including transfers between accounts; and

(C) Review documentation related to access to inactive and closed accounts.

(iii) At least annually, all computerized player tracking systems (in-house developed and purchased systems) must be reviewed by personnel independent of the individuals that set up or make changes to the system parameters. The review must be performed to determine that the configuration parameters are accurate and have not been altered without appropriate management authorization (*e.g.,* player tracking system—verify the accuracy of the awarding of points based on the dollar amount wagered). Document and maintain the test results.

(5) Complimentary services or items. At least monthly, review the reports required in § 543.13(d). These reports must be made available to the Tribe, TGRA, audit committee, other entity designated by the Tribe, and the Commission, upon request.

(6) Patron deposit accounts. (i) At least weekly, reconcile patron deposit account liability (deposits ± adjustments − withdrawals = total account balance) to the system record.

(ii) At least weekly, review manual increases and decreases to/from player deposit accounts to ensure proper adjustments were authorized.

(7) Lines of credit. (i) At least three (3) times per year, an agent independent of the cage, credit, and collection functions must perform all of the following:

(A) Select a sample of line of credit accounts;

(B) Ascertain compliance with credit limits and other established credit issuance procedures;

(C) Reconcile outstanding balances of both active and inactive (includes write-offs and settlements) accounts on the accounts receivable listing to individual credit records and physical instruments. This procedure need only be performed once per year for inactive accounts; and

(D) Examine line of credit records to determine that appropriate collection efforts are being made and payments are being properly recorded.

(ii) On at least five (5) days per month, subsequently reconcile partial payment receipts to the total payments recorded by the cage for the day and account for the receipts sequentially.

(iii) At least monthly, perform an evaluation of the collection percentage of credit issued to identify unusual trends.

(8) Drop and count. (i) At least quarterly, unannounced currency counter and currency counter interface (if applicable) tests must be performed, and the test results documented and maintained. All denominations of currency and all types of cash out tickets counted by the currency counter must be tested. This test may be performed by internal audit or the TGRA. The result of these tests must be documented and signed by the agent or agents performing the test.

(ii) At least quarterly, unannounced weigh scale and weigh scale interface (if applicable) tests must be performed, and the test results documented and maintained. This test may be performed by internal audit or the TGRA. The result of these tests must be documented and signed by the agent or agents performing the test.

(iii) For computerized key security systems controlling access to drop and count keys, perform the following procedures:

(A) At least quarterly, review the report generated by the computerized key security system indicating the transactions performed by the individual(s) that adds, deletes, and changes users' access within the system (*i.e.,* system administrator). Determine whether the transactions completed by the system administrator provide adequate control over the access to the drop and count keys. Also, determine whether any drop and count key(s) removed or returned to the key cabinet

by the system administrator was properly authorized;

(B) At least quarterly, review the report generated by the computerized key security system indicating all transactions performed to determine whether any unusual drop and count key removals or key returns occurred; and

(C) At least quarterly, review a sample of users that are assigned access to the drop and count keys to determine that their access to the assigned keys is adequate relative to their job position.

(iv) At least quarterly, an inventory of all controlled keys must be performed and reconciled to records of keys made, issued, and destroyed. Investigations must be performed for all keys unaccounted for, and the investigation documented.

(9) Cage, vault, cash, and cash equivalents. (i) At least monthly, the cage accountability must be reconciled to the general ledger.

(ii) On at least one day each month, trace the amount of cage deposits to the amounts indicated in the bank statements.

(iii) On at least two days each year, a count must be performed of all funds in all gaming areas (*i.e.* cages, vaults, and booths (including reserve areas), kiosks, cash-out ticket redemption machines, and change machines. Count all chips and tokens by denomination and type. Count individual straps, bags, and imprest banks on a sample basis. Trace all amounts counted to the amounts recorded on the corresponding accountability forms to ensure that the proper amounts are recorded. Maintain documentation evidencing the amount counted for each area and the subsequent comparison to the corresponding accountability form. The count must be completed within the same gaming day for all areas.

(A) Counts must be observed by an individual independent of the department being counted. It is permissible for the individual responsible for the funds to perform the actual count while being observed.

(B) Internal audit may perform and/or observe the two counts.

(iv) At least annually, select a sample of invoices for chips and tokens purchased, and trace the dollar amount from the purchase invoice to the accountability document that indicates the increase to the chip or token inventory to ensure that the proper dollar amount has been recorded.

(v) At each business year end, create and maintain documentation evidencing the amount of the chip/token liability, the change in the liability from the previous year, and explanations for adjustments to the liability account including any adjustments for chip/token float.

(vi) At least monthly, review a sample of returned checks to determine that the required information was recorded by cage personnel when the check was cashed.

(vii) At least monthly, review exception reports for all computerized cage systems for propriety of transactions and unusual occurrences. The review must include, but is not limited to, voided authorizations. All noted improper transactions or unusual occurrences identified must be investigated and the results documented.

(viii) Daily, reconcile all parts of forms used to document increases/decreases to the total cage inventory, investigate any variances noted, and document the results of such investigations.

(10) Accounting. (i) At least monthly, verify receipt, issuance, and use of controlled inventory, including, but not limited to, bingo cards, pull tabs, playing cards, keys, pre-numbered and/or multi-part forms, etc.

(ii) Periodically perform minimum bankroll calculations to ensure that the gaming operation maintains cash in an amount sufficient to satisfy the gaming operation's obligations.

§ 543.25–543.49 [Reserved]

Dated this 22nd of May, 2012.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Commissioner.

[FR Doc. 2012–12991 Filed 5–31–12; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 547

RIN 3141–AA27

Technical Standards

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule.

SUMMARY: The National Indian Gaming Commission (NIGC) proposes to amend its technical standards to change the order of the first five sections; add definitions and amend existing definitions; amend the requirements concerning minimum odds for Class II games; amend standards for test labs; remove references to the Federal Communications Commission and Underwriters Laboratory; require a player interface to display a serial number and date of manufacture; amend requirements concerning approval of downloads to a Class II gaming system; establish mandatory tests for random number generators; amend the requirements for scaling algorithms and scaled numbers; and clarify the term ''alternate standard.''

DATES: The agency must receive comments on or before July 31, 2012.

ADDRESSES: You may submit comments by any one of the following methods, however, please note that comments sent by electronic mail are strongly encouraged.

- *Email comments to: reg.review@nigc.gov.*
- *Mail comments to:* National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005.
- *Hand deliver comments to:* 1441 L Street NW., Suite 9100, Washington, DC 20005.
- *Fax comments to:* National Indian Gaming Commission at 202–632–0045.

FOR FURTHER INFORMATION CONTACT: National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: 202–632–7009; email: *reg.review@nigc.gov.*

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal.

II. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* was signed into law on October 17, 1988. The Act establishes the NIGC and sets out a comprehensive framework for the regulation of gaming on Indian lands. On October 8, 2008, the NIGC published a final rule in the **Federal Register** called *Technical Standards for Electronic, Computer, or Other Technologic Aids Used in the Play of Class II Games.* 73 FR 60508. The rule added a new part to the Commission's regulations establishing a process for ensuring the integrity of electronic Class II games and aids. The standards were

designed to assist tribal gaming regulatory authorities and operators with ensuring the integrity and security of Class II gaming, the accountability of Class II gaming revenue, and provide guidance to equipment manufacturers and distributors of Class II gaming systems. The standards do not classify which games are class II and which games are class III.

On November 18, 2010, the NIGC issued a Notice of Inquiry and Notice of Consultation advising the public that the NIGC has endeavored to conduct a comprehensive review of its regulations and requesting public comment on which were most in need of revision, in what order the Commission should review its regulations, and the process NIGC should utilize to make revisions. 75 FR 70680. On April 4, 2011, after consulting with tribes and reviewing all comments, the NIGC published a Notice of Regulatory Review Schedule (NRR) setting out a consultation schedule and process for review. 76 FR 18457. Part 547 was included in the third regulatory group reviewed pursuant to the NRR.

III. Development of the Proposed Rule

On July 8, 2011, the Commission began a series of tribal consultations on part 547. Based in part on the recommendations to the Commission during consultations, on August 10, 2011, the Commission requested tribes to nominate tribal representatives to serve on a Tribal Advisory Committee (TAC) to assist the Commission in drafting changes to parts 543 and these technical standards. The Commission then selected fifteen tribal representatives. The members of the TAC include a diverse group of regulators, tribal leaders, and subject matter experts.

Beginning on October 20, 2011, the TAC held four meetings in which the Commission participated. All of the meetings were open to the public and three of the four were transcribed. Those transcripts can be viewed on the NIGC's Web site. During the meetings, the TAC and NIGC discussed all aspects of the technical standards, with the NIGC participating and providing assistance. As a result of those meetings the TAC submitted a proposed part 547 regulation to the Commission.

The Commission appreciates the TAC's deliberation and work product, which consisted of the TAC's proposed part 547. Upon reviewing the TAC's recommendation, and taking into consideration comments received through tribal consultations, the Commission published a discussion draft of the amended technical standards on its Web site. The discussion draft adopted a number of the TAC's recommendations, such as moving requirements that more appropriately belong to the Minimum Internal Control Standards found at 25 CFR part 543.

After publishing the discussion draft, the Commission conducted consultations in Mayetta, KS and San Diego, CA. In addition to tribal consultations, the Commission requested public comment on the discussion draft. The consultations, combined with the written comments, have proven invaluable to the Commission as it addresses the NIGC's technical standards.

While the comments were generally supportive of the discussion draft, comments indicated several specific areas of concern. After considering the comments received, the Commission proposes the following amendments to the part 547 technical standards.

A. General Comments

One commenter requested clarification of the NIGC's authority to implement these standards and its authority to enforce the standards. IGRA gives the Commission the authority to adopt these technical standards. Congress was expressly concerned that gaming under IGRA be ''conducted fairly and honestly by both the operator and players'' and ''to ensure that the Indian tribe is the primary beneficiary of the gaming operation.'' 25 U.S.C. 2702(2). The technical standards are designed to ensure that these concerns are addressed. These standards implement the authority granted the Commission to monitor, inspect, and examine Class II gaming, 25 U.S.C. 2706(b)(1)–(4), and to promulgate such regulations as it deems appropriate to implement the provisions of IGRA. 25 U.S.C. 2706(b)(10).

Another commenter asked the Commission to make clear that tribal facilities cannot engage in gambling activities that are illegal under state law. The Commission declines to do so. A tribe may engage in Class II gaming on Indian lands within its jurisdiction if the gaming is located within a state that permits such gaming for any purpose, by any person, organization or entity, and the tribe adopts a gaming ordinance approved by the NIGC Chair. 25 U.S.C. 2710(b)(1). So long as a state permits the game of bingo, regardless of the state's definition of the game, an Indian tribe within that state may also play bingo as defined in IGRA. Accordingly, tribes are not bound to state definitions of the game of bingo. If, for example, a state permits paper bingo only, a tribe within that state may play electronic bingo so long as it otherwise meets IGRA's Class II gaming definition. The Commission reiterates that this rule does not classify games for purposes of IGRA. The rule assumes that the games played are Class II games. This rule establishes a process for ensuring the integrity and security of Class II games and an accounting of Class II revenue.

B. Regulation Organization

Sections 547.2 through 547.5 of the current regulation have been reorganized for clarity. The *Definitions* section has been moved from § 547.3 to § 547.2. Section 547.3 of the proposed rule has been renamed, *Who is responsible for implementing these standards?,* and incorporates provisions from §§ 547.2 and 547.5 of the current regulation. Section 547.4 of the proposed rule is titled *What are the rules of general application for this part?,* and was moved from § 547.5 of the current regulation. Finally, § 547.5 of the proposed rule, *How does a tribal government or TGRA comply with this part?,* was moved from 547.4 of the current regulation. The NIGC included these changes in the discussion draft and received no comments supporting or opposing these changes.

One commenter, however, asserted that the order of later sections is confusing and recommended that the Commission change the part to the following order: Hardware, Software, System Components, Installation/Downloading, and, finally, Grandfathering. The Commission declines to adopt this suggestion. The Commission believes that the regulation is clear as currently arranged.

A commenter also took issue with the use of the word *wager,* suggesting that the term *purchase* or *sale* be used instead. The Commission declines to adopt this recommendation. The terms *sale* and *purchase* do not adequately address Class II games outside of bingo, while wager encompasses all Class II gaming.

C. Definitions

This proposed rule adds definitions to § 547.2 and proposes amendments to a number of existing definitions. Some changes were first proposed in the discussion draft, while others are proposed based on comments received on the discussion draft. The discussion draft suggested adding definitions for *Patron* and *Proprietary Class II System Component.* The Commission received no comments on the definition of *Patron,* which was carried over to this proposed rule. Several commenters, however, urged the Commission to remove the definition of *Proprietary*

Class II System Component on the grounds that the term is not used elsewhere in part 547.

The Commission agrees with the commenters and has removed the definition of *Proprietary Class II System Component.* The intended purpose of the definition was to distinguish the common back of the house component systems that communicate with all of the Class II gaming systems, regardless of the manufacturer, from those components that work exclusively with one manufacturer's Class II system. On review of the standards, the Commission has concluded that this definition is not necessary and has led to confusion. Therefore, it is not included in the proposed rule. For the same reasons, the Commission has not included the word *proprietary* in the definitions of *Cashless system* and *Voucher system.*

Several commenters also suggested that the Commission revise the definition of *Reflexive software* to clarify that the harm with such software is the denial of a prize to which the player is otherwise entitled based on the random outcome of the game. The Commission declines to revise the definition in this way. Although the denial of a prize is one harm associated with reflexive software, the definition of *Reflexive software* is also concerned with the potential manipulation of the outcome of a game to award a prize.

Commenters also recommended that the Commission amend the definition of *Agent* to permit the use of computer applications to perform the function(s) of an agent. The proposed rule does not include this proposed amendment. The term ''computer applications'' is undefined and potentially broad. Any hardware that is under the control of an agent is exempt from the testing requirements of this part, and thus amending the definition of *Agent* in this manner potentially would exempt hardware that is subject to testing requirements such as financial instrument acceptors, financial instrument dispensers, etc.

In response to other comments, the Commission has added definitions for *Advertised top prize, Audit mode, Enroll,* and *Unenroll.* The Commission has also reinserted the definition of *Electrostatic discharge* and, at the suggestion of one commenter, amended the definition of *Electromagnetic interference.*

D. Who is responsible for implementing these standards?

As with the discussion draft, § 547.3 of the proposed rule has been renamed and incorporates provisions that were previously located in other sections.

Several commenters advocate changing § 547.3(a) to reflect that TGRAs are the primary regulators of Indian Gaming. The comments stated that the current language recognizing that TGRAs ''also regulate Class II gaming'' is inconsistent with IGRA and NIGC statements. As support, the commenters point to 25 U.S.C. 2701(5), which states that ''Indian tribes have the exclusive right to regulate gaming activity on Indian lands * * *.'' The commenters also note that the NIGC has repeatedly recognized that tribes are the primary regulators of Indian gaming in the preamble to the current regulation.

The commenters are correct that tribes are the primary regulators of Indian gaming. The Commission has never understood that to mean, however, that the regulatory authority of a TGRA is superior to that of the NIGC. Rather, the Commission recognizes that TGRAs are the day-to-day regulators of Indian gaming and the first line of oversight at every facility. Although the findings section of IGRA states that tribes have the exclusive right to regulate gaming activity on Indian lands, IGRA also establishes a regulatory scheme that includes the NIGC as well as tribes.

Another commenter suggested adding a provision that ''nothing in this part is intended to diminish TGRA authority.'' The Commission did not adopt this recommendation. The Commission believes that the standards clearly state that a TGRA is free to implement stricter standards than those found in this part. It may not, however, implement standards that are less stringent than those found here.

Many commenters expressed confusion over § 547.3(c). This section makes clear that, if a provision of part 547 is applicable to a facility's Class II gaming system, the Class II gaming system must comply with that provision. Inversely, a Class II gaming system does not need to meet standards that do not apply to the system. The first sentence of the sub-section states that ''gaming equipment and software used with Class II gaming systems must meet all applicable requirements of this part.'' As an example, the second sentence clarifies that if a Class II gaming system lacks the ability to print or accept vouchers, any standards governing vouchers do not apply. Commenters noted that this provision is clear when the two sentences are read together, but confusing when read separately.

The Commission believes that the provision is understandable as written and informs the public that this provision, as well as the rest of the regulation, must be read as a whole, rather than piecemeal. As the comments mentioned, when read in context, the provision is understandable. The proposed rule, therefore, does not include this recommended change.

Another commenter asked that the Commission amend the regulation to clarify that these standards do or do not apply to various specific types of games. The Commission declines to do so, as it believes that § 547.3(c) makes clear that the regulated community need only adhere to those standards that apply to a Class II gaming system.

E. Minimum Odds

The discussion draft amended the minimum odds requirement found in § 547.5(c) of the current regulation. Instead of requiring minimum odds, the discussion draft, at § 547.16, required the system display a disclaimer notifying the patron if the odds of winning a game exceed 100 million to one.

Several commenters supported the discussion draft's approach of removing the minimum odds requirement, but were unanimous in recommending against requiring the odds notification added to § 547.16. Some commenters stated that the provision is unnecessary, as the standards already require the facility to display game rules and prize schedules. Others objected to the requirement on the grounds that it will create an unfair market advantage for games that do not need to display the notice. Another commenter suggested that the odds notification requirement will make all existing Class II gaming systems non-compliant because no existing player interface conforms to this requirement. One commenter submitted that the notice serves no purpose because it does not actually inform the patron of anything. Another commenter, though in opposition to the requirement generally, recommended that the disclaimer be moved to the help screen.

The proposed rule includes a modified version of the notification requirement. The notification need not be continually displayed and may, for example, be included on the help screen or with the rules and prize schedule for the game. The Commission included the requirement primarily out of fairness to the player. Although one commenter suggested that the notification does not actually tell the player anything, the Commission disagrees. The notification informs the player that the odds of winning a top prize exceed 100 million to one. The Commission rejects the argument that requiring the odds notification will render all Class II

gaming systems non-compliant. Currently, no Class II game is permitted to have odds greater than 100 million to 1. Therefore, that provision should not apply to any Class II games in the marketplace currently.

Finally, § 547.4 of the proposed rule requires the test lab certifying the game to calculate and/or verify mathematical expectations and report its calculations to the TGRA. At the request of the TGRA, the manufacturer must also submit mathematical expectations to TGRA. This requirement was part of the discussion draft, and the comments received support its inclusion.

F. Approval and Game Function

Section 547.4(b) of the proposed rule requires that all gaming equipment and software operated at a facility be identical to that tested by a test lab and approved by the TGRA. Some commenters recommended removing the requirement that ''unapproved software must not be loaded onto or stored on any program storage medium used in a class II gaming system * * *.'' The commenters suggested that this provision is a control standard better located in the Class II Minimum Internal Control Standards found at 25 CFR part 543. The Commission agrees and has moved the requirement from the proposed technical standards, and has included it in proposed amendments to part 543.

Commenters also suggested the Commission review § 547.4(c). The section requires that all Class II gaming systems perform according to the manufacturer's design and operating specifications. The commenter noted that the provision is odd, as there is no requirement that a manufacturer submit this information to the TGRA or test lab.

The Commission declines to remove the requirement. The Commission realizes that no other section of these standards requires a manufacturer to submit the operating and design specifications. However, the purpose of the section is to affirm the TGRA's authority to ensure that the Class II gaming system operates as the manufacturer represents. This provision provides an additional basis for a TGRA to require this information.

G. Grandfathered Games

When implemented in 2008, the part 547 technical standards introduced several new requirements for Class II gaming systems designed to protect the security and integrity of Class II gaming systems and tribal operations. The Commission understood, however, that some existing Class II gaming systems might not meet all of the requirements of the technical standards. Therefore, to avoid any potentially significant economic and practical consequences of requiring immediate compliance, the Commission implemented a five-year ''grandfather period'' for eligible gaming systems. The Commission believed that a five year period was sufficient for market forces to move equipment toward compliance with the standards.

To qualify as a grandfathered game pursuant to the current regulations, a gaming system must have been submitted to a testing laboratory within 120 days of November 10, 2008. The testing laboratory must have then reviewed the gaming system for compliance with a specific, minimum set of requirements, and have issued a report to the applicable TGRA, which must have then approved the gaming system for grandfather status. At the end of the five year period—November 10, 2013—the grandfathered systems must be brought in to compliance with the requirements of Part 547 or removed from play.

The Commission received several comments on the grandfathering provisions, the majority of which focused on the five year duration. Many comments suggested that the Commission remove the five year clause, effectively creating a permanent class of grandfathered games. Comments reasoned that making no amendments to the current regulation would cause economic hardship to some tribes, although the Commission received no specific information indicating what, if any, economic hardship tribes would incur.

This proposed rule does not include any substantive changes to the grandfathering provisions because the comments received by the Commission on the preliminary draft did not provide facts to support any change to this section. The Commission invites comment that provides data and the factual basis supporting the views and suggestions regarding the grandfathering provisions. For example, the Commission requests specific information on what provisions in part 547, if any, prevent compliance for current grandfathered Class II gaming systems, and why? Such information is particularly helpful in developing reasoned regulatory decisions.

Although the proposed rule does not include any substantive changes to the grandfathering provisions, the Commission is considering whether substantive amendments are appropriate. Based on information received during this comment period, the Commission may issue a final rule that amends all or parts of the grandfathering provisions as described below. Therefore, the Commission requests the public to provide specific facts and information relating to the following potential changes to the provision, views on which approach will best maintain the integrity of Indian gaming, and, specifically, answers to the questions below:

Duration of the ''sunset clause.'' The Commission is considering amending the duration of the grandfather provision in § 547.4(b)(1) by extending the period for an additional three to five years or removing the period. In order to make a well-informed, considered decision, the Commission requests the public to provide responses to the following questions:

1. How many Class II gaming systems will be affected if the current date of November 10, 2013 is extended or eliminated?

2. What would be the regulatory and other impacts of extending the period by three to five years past November 10, 2013?

The 120-day deadline to submit to a testing lab. The Commission is considering amending the 120-day submission period in § 547.4(a)(1) by allowing a limited submission period for those systems that did not meet the original 120-day deadline for submission of the gaming system to the lab.

1. How many Class II gaming systems could be potentially submitted to labs if the 120-day period is modified?

2. What would be the regulatory and other impacts of allowing a limited submission period for those systems that did not meet the original deadline?

Modifications. The Commission is considering amending the section by eliminating the five year period in § 547.4(b)(1) and instead requiring that all future repairs, replacements, and modifications to current grandfathered Class II gaming systems be fully compliant with the standards established in part 547.

1. If part 547 were amended in this fashion to apply only to all modifications, what specific impacts would the amendment have on tribal gaming operations?

2. If part 547 were amended in this fashion to apply to all repairs, replacements and modifications to grandfathered Class II gaming systems, what specific impacts would the amendment have on tribal gaming operations?

Comments also suggested that placing a sunset period on grandfathered systems would invalidate federal court decisions sanctioning the games. The commenters have not cited to any

particular cases in support of this comment and, as a result, the Commission cannot directly address any decisions or arguments alluded to in the comments. However, the Commission notes that this provision does not bear on the classification of a game as Class II or Class III. The provision requires only that, for any Class II game to be available for play, the game must have been certified as a grandfathered Class II gaming system or comply with the standards in part 547, and that systems must comply with all standards in Part 547 by November 10, 2013.

In addition, comments stated that protection of grandfathered systems is necessary as part of compact negotiations. The Commission understands that Class II games are an important component of Indian gaming. However, part 547 is designed to protect the security and integrity of Class II gaming.

Commenters also expressed concern over the discussion draft's inclusion of the phrase, ''available for use at any tribal gaming facility'' in § 547.5(a). Commenters read the provision to require that a grandfathered system must have been available for use on or before November 10, 2008. This interpretation was not intended by the Commission. The section was meant to convey that before any Class II gaming system manufactured prior to November 10, 2008, may be made available for use, it must meet the grandfathering requirements. The Commission has amended the provision accordingly.

In response to this comment, the Commission also revisited the section's requirement that the Class II gaming system must have been manufactured or placed in a tribal gaming facility before November 10, 2008. The Commission realizes that the application of the requirement to systems that were manufactured prior to November 10, 2008 will necessarily include those games that were placed in a tribal facility, and has thus changed the section.

Other comments noted that the discussion draft's grandfathering provision creates a catch-22 by requiring software systems to have been submitted for certification based on new standards contained in this draft. The Commission recognizes that the discussion draft's requirement that grandfathered systems have the ability to enable or disable remote access created a new standard and, as a result, may disqualify a previously properly certified grandfathered system. The provision has, accordingly, not been included in the proposed rule. Under this proposed rule, any game that was certified as grandfathered based on the requirements in the current 547 remains certified.

This change also resolves comments recommending that the Commission insert language clarifying that nothing in the rule is intended to prohibit the continued use of any Class II gaming component that was previously certified against the grandfather provisions or judicial ruling. If a component was grandfathered, it may be used pursuant to the grandfathering provisions found in this proposed rule. The Commission, therefore, declines to include the recommended language.

Further, comments have suggested that a requirement that a test lab certify compliance with ''any applicable federal laws and regulations'' is too inclusive. According to the commenters, it would not be feasible for a testing laboratory to review all federal laws and regulations to determine which ones are applicable.

The Commission agrees with the comment, and believes that a TGRA is in the best position to ensure compliance with federal regulations that apply to its gaming systems. As a result, the proposed rule includes a provision to require a test lab to note compliance with any standard established by the TGRA. The Commission encourages TGRAs to use this provision to ensure compliance with federal standards that apply to their Class II game systems, but fall outside of the NIGC's purview.

Other commenters have expressed concern that a rule incorporating the discussion draft's provisions will require re-certification of otherwise compliant systems. Because the proposed rule does not make any substantive changes to the grandfather provisions, any system compliant with the existing part 547 will also meet the standards outlined in this proposed rule.

H. Testing Laboratories

Section 547.5(f) of the discussion draft permitted a testing laboratory to provide the testing and certification required by the standards even if owned by, or affiliated with, a tribe, so long as it is independent from the manufacturer and gaming operator for whom it is providing testing. Comments on this change were overwhelmingly supportive. One commenter, though, suggested that this change creates the perceived risk of a conflict of interest and recommended no amendment to this section.

The proposed rule includes the amendment. The Commission believes that any perceived risk is mitigated by the section's requirement that the tribally-owned or affiliated test laboratory be independent from the manufacturer and gaming operator for whom it is providing testing.

The discussion draft also amended § 547.7 of the current regulation requiring certifications from Underwriter's Laboratory (UL) or its equivalent regarding liquid spills, electromagnetic interference, etc. The discussion draft added a provision at § 547.5(c)(4) requiring a testing laboratory's report to certify that the operation of each interface will not be affected by electrostatic discharge, liquid spills, electromagnetic interference, radio frequency interference, or any other risk identified by the TGRA.

Comments regarding this change were generally positive. In expressing support for the removal of the UL reference, a few commenters noted that the establishment and enforcement of electrical product safety standards falls within the authority of tribal governments. Another comment claimed that the NIGC is not authorized to establish or enforce electrical safety standards and questioned the propriety of an agency specifying a particular laboratory to conduct such testing.

The Commission appreciates support for the removal of the reference to UL and has kept the new language, with few changes, in this proposed rule. The Commission notes, however, that the provision still requires player interfaces to be tested to ensure that they will not be compromised or affected by listed events and conditions. Rather than requiring that the test lab itself perform the test and certify the Class II gaming system, the proposed rule instead requires the test lab to confirm that the system has been certified.

Another commenter submitted that it is not clear that a testing laboratory can ''certify'' that the player interface will not be compromised by ''any other risk identified by the TGRA.'' The NIGC agrees and the amendment proposes that the test laboratory must confirm that each player interface was certified pursuant to any other tests required by the TGRA.

I. Player Interface

Section 547.7(d) of the discussion draft added a requirement that the player interface display the serial number and date of manufacture. Several commenters suggested that use of the word ''display'' is confusing and the provision should be changed to require the player interface to ''bear'' the serial number and date of manufacture. The Commission agrees that, when used in the context of a Class II gaming

system, the word ''display'' could be understood to require the game screen to show the information, rather than merely to require the information to be located somewhere on the player interface. Therefore, the Commission has changed § 547.7(d) to require that the player interface ''must be labeled with the serial number and date of manufacture * * * .'' The Commission also notes that this change will be consistent with § 547.5(b)(6) of this proposed rule.

Another commenter urged the Commission to add a provision to § 547.7(k) specifying that ''nothing herein must prohibit or limit the technology utilized to run Class II gaming systems.'' The Commission believes that § 547.3(b) already makes this intent clear and, as such, declines to incorporate this comment.

J. Game Initiation and Play

Section 547.8(b) of the discussion draft requires a Class II gaming system follow and not deviate from a constant set of rules for each game. The provision also prohibits any automatic or undisclosed rule changes. Several commenters recommended eliminating the words ''automatic or.'' The Commission respectfully disagrees. Any rule should be disclosed to the patron prior to initiation of game play, and any rule change to the game must be disclosed to the patron. This section, combined with § 547.16(a), ensures that the constancy of game rules for all game features, including any bonus features.

Comments suggested that the requirement in § 547.8(b) that a player ''choose to participate in the play of a game,'' is vague, not a technical standard, and cannot be tested. The Commission agrees that this provision is not clear. The intent is to require that the player initiates game play. To clarify, the Commission changed the provision to read, ''[n]o game play may commence unless initiated by a player.''

K. Entertaining Display

Section 547.8 of the current technical standards contains certain requirements regarding the entertaining displays. Section 547.8(a)(2)(ii) requires that, between plays of any game, or until a new game option is selected, the player interface must display the final results for the last game, including the entertaining display. Section 547.8(d)(2), meanwhile, requires entertaining display be included in the last game recall.

The discussion draft removed references to entertaining displays from both of these sections. Nearly all of the comments expressed support for the change. Comments focused on the fact that the entertaining display has no significance to the outcome of the game. A few commenters, however, opposed this change.

One commenter suggested that the revision to 547.8(a)(2)(ii) would require the game display to ''go blank'' in between games. The Commission respectfully disagrees. The standard, as proposed, does not require a blank screen. It still requires the player interface to display the wager amount and all prizes and total credits won during the last game played, the final results of the last game played, and any default purchase or wager amount for the next play.

Some commenters also objected to the discussion draft no longer requiring last game recall to include the entertaining display. The commenter noted that when a pay-table on a player interface indicates that certain combinations of symbols will result in certain prizes, a player has a reasonable right to expect a prize if that combination of symbols appears on the pay line of the ''entertainment only'' display. The commenter asserts that if a game posts a prize schedule corresponding to the entertaining display instead of, or in addition to, the bingo card, and a prize paying combination of symbols appears in the entertaining display but no prizes are awarded, the integrity of the gaming system and reputation of the tribe may be called into question.

The Commission agrees that the reputation of an operation is of utmost importance and can reach beyond a particular facility to bolster or harm the reputation of Indian gaming. However, the Commission respectfully disagrees. The game of bingo is dictated by the ball draw and the bingo card, not the entertaining display. This is made clear by the disclaimer required by § 547.16 clarifying that actual prizes are determined by bingo play not the entertaining display. For the technical standards to require last game recall to include the entertaining display would incorrectly emphasize an aspect of the game that has no bearing on its outcome.

The Commission also disagrees with the commenter's assessment that if the entertaining display indicates a win, the patron should be paid regardless of the bingo results. Prizes should only be awarded on Class II electronic bingo games if the patron has won according to the bingo card.

L. Game Interruption and Resumption

The current technical standards and the discussion draft require that if a Class II gaming system is interrupted, it can, upon resumption, return to a known state; check for any fault condition; verify the integrity of data stored in critical memory; return the purchase or wager amount to the player in accordance with the rules of the game; and detect any change or corruption in the Class II gaming system software.

One commenter stated that many of the requirements cannot be accomplished by Class II gaming systems. The Commission disagrees. Class II gaming systems can meet this standard. Further, the Commission notes that this has been a requirement since the current regulation went into effect in 2008 and all Class II gaming systems, with the exception of grandfathered systems, should already meet this requirement.

M. Accounting Functions

Section 547.9 of the discussion draft requires the Class II gaming system be capable of tracking minimum accounting data. As part of this requirement, each type of financial instrument accepted and paid by the Class II gaming system must be tracked according to applicable Commission and TGRA regulations governing minimum internal control standards. Some commenters pointed out that the TGRA requirements will necessarily include the Commission's minimum internal control standards and, as such, the references to the Commission should be deleted. The Commission agrees and has changed the section accordingly.

N. Critical Events

Section 547.10 of the current regulation and the discussion draft lists several types of fault events that must be recorded by the Class II gaming system. One commenter suggests that ''financial storage component full'' notification cannot be reported unless an operation is using ''smart cans'' with the Class II gaming system. The commenter recommends the standard be deleted, as requiring compliance would be costly and there is no risk associated with a can being full.

The Commission declines to adopt this recommendation. The Commission notes that this has been a requirement since the current technical standards went into effect in 2008, and all Class II gaming systems, with the exception of grandfathered systems, should already meet this standard.

O. Download Approval

This proposed rule removes the requirement from § 547.12 that the TGRA authorize all downloads by a

Class II gaming system. This change was first made in the discussion draft and many commenters requested clarification that nothing prohibits the TGRA from maintaining the download approval requirement. As stated in 547.3(a), the Commission recognizes that the TGRA regulates technical standards and, accordingly, may implement stricter standards. Nothing in this section prohibits the TGRA from requiring its approval of downloads.

P. Scaling Algorithm

Section 547.14 of the current regulation requires that a random number generator (RNG) that provides output scaled to given ranges must use an unbiased algorithm. According to the regulation, a scaling algorithm is unbiased if the measured bias is no greater than 1 in 100 million. The discussion draft changed this requirement to require the RNG to use an unbiased algorithm and report any bias to the TGRA. The proposed rule includes this amendment. A few commenters propose re-inserting a range for measured bias on the grounds that requiring any bias to be reported could be an unworkable standard, but do not explain why the proposed standard is unworkable.

The Commission also notes that the measured bias of 1 in 100 million proved unworkable and required the Commission to issue bulletin number 2008–4 clarifying that the threshold for reporting a bias should instead be 1 in 50 million. The Commission, therefore, declines to implement the suggested comment in this proposed rule and asks commenters to be more specific as to why the requirement to report any bias is unworkable. The Commission further asks for comments on what would be a workable threshold.

Q. Disclaimers

Section 547.16(b) of the current regulation requires the Class II gaming system to continuously display two disclaimers—first, that malfunctions void all prizes and plays and the prizes are determined by bingo play and second, that any other display is for entertainment purposes only. Although the discussion draft maintained this requirement, the proposed rule now requires the ''player interface,'' rather than the ''Class II gaming system'' to display the disclaimers.

A few commenters suggested that the Commission should clarify that this change is not intended to require that the disclaimers be displayed on the video screen. The Commission agrees. The standard requires only that the player interface, which is defined by this part, display the disclaimer, not any specific part of the interface. So long as the disclaimer is located in a place that can be clearly seen by the public, as this standard clearly intends, it can be located anywhere the interface that the TGRA allows.

Another commenter suggests that the ''continually display'' requirement presents a hardship, as it takes up space on smaller devices such as bingo minders. The commenter also notes that the requirement will become wholly unworkable as technology advances to the point where participants are able to use their own technology, such as a cell phone, in the play of the game.

The Commission declines to incorporate this suggestion into the proposed rule. As recognized by recommended drafts submitted to the NIGC, including that presented by the TAC, the disclaimers are of critical importance, and, therefore, the Commission believes that it is necessary that they be displayed somewhere on the player interface at all times.

R. Alternate Standards

Finally, the discussion draft made minor changes to § 547.17. Although the overall purpose of the section is the same, the discussion draft uses the term ''alternate standard'' rather than ''variance.'' The Commission believes that ''alternate standard'' more accurately reflects the activity covered by the standard. The change is also consistent with the proposed part 543 minimum internal control standards, which also uses ''alternate standard'' rather than ''variance.''

Although commenters were unanimously supportive of the change, a few asked that the standard be changed to clarify that the TGRA can implement the alternate standard as soon as it is approved by the TGRA. Section 547.17(b)(4) of the discussion draft and this proposed rule prohibit an alternate standard from being implemented until ''it has been approved by the TGRA * * * or the Chair * * *.'' The Commission believes that this language makes clear that an alternate standard may be implemented upon TGRA approval and declines to change the section further.

Another commenter suggested clarifying the § 547.17(a)(2)(ii) requirement that a TGRA submit to the Chair, ''the alternate standard as granted and the record on which it is based.'' The Commission intended this section to require the record upon which the approval is based and has changed the language accordingly.

One commenter also suggested finding a compromise between a standard that allows a TGRA to submit an approved standard for NIGC comment, and the discussion draft standard, which required the alternate standard be submitted for NIGC approval.

Although TGRAs have the authority to implement stricter standards, these are NIGC's minimum standards. Any alternate standard, therefore, must be approved by the NIGC. A TGRA may still approve a standard in its TICS that is, at a minimum, as strict as these standards.

Regulatory Matters

Regulatory Flexibility Act

The proposed rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of $100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions. Nor will the proposed rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that the proposed rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the proposed rule does not unduly burden the judicial system and meets the requirements of § 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the proposed rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Paperwork Reduction Act

The information collection requirements contained in this rule were previously approved by the Office of Management and Budget (OMB) as required by 44 U.S.C. 3501 et seq. and assigned OMB Control Number 3141–0007, which expired in August of 2011. The NIGC is in the process of reinstating that Control Number.

Authority: 25 U.S.C. 2706(b).

Text of the Proposed Rule

PART 547—MINIMUM TECHNICAL STANDARDS FOR GAMING EQUIPMENT USED WITH THE PLAY OF CLASS II GAMES

Sec.

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Authority: 25 U.S.C. 2706(b).

§ 547.1 What is the purpose of this part?

The Indian Gaming Regulatory Act, 25 U.S.C. 2703(7)(A)(i), permits the use of electronic, computer, or other technologic aids in connection with the play of Class II games. This part establishes the minimum technical standards governing the use of such aids.

§ 547.2 What are the definitions for this part?

For the purposes of this part, the following definitions apply:

Account access component. A component within a Class II gaming system that reads or recognizes account access media and gives a patron the ability to interact with an account.

Account access medium. A magnetic stripe card or any other medium inserted into, or otherwise made to interact with, an account access component in order to give a patron the ability to interact with an account.

Advertised top prize. The highest single prize available based on information contained in the prize schedule.

Agent. A person authorized by the gaming operation, as approved by the TGRA, to make decisions or perform tasks or actions on the behalf of the gaming operation.

Audit mode. The mode where it is possible to view Class II gaming system accounting functions, statistics, etc. and perform non-player-related functions.

Cancel credit. An action initiated by the Class II gaming system where some or all of a player's credits are removed by an attendant and paid to the player.

Cashless system. A system that performs cashless transactions and maintains records of those cashless transactions.

Cashless transaction. A movement of funds electronically from one component to another. *CD–ROM.* Compact Disc—Read Only Memory. *Chair.* The Chair of the National Indian Gaming Commission.

Class II gaming. Class II gaming has the same meaning as defined in 25 U.S.C. 2703(7)(A).

Class II gaming system. All components, whether or not technologic aids in electronic, computer, mechanical, or other technologic form, that function together to aid the play of one or more Class II games, including accounting functions mandated by these regulations.

Commission. The National Indian Gaming Commission established by the Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq.*

Coupon. A financial instrument of fixed wagering value, usually paper, that can only be used to acquire non-cashable credits through interaction with a voucher system. This does not include instruments such as printed advertising material that cannot be validated directly by a voucher system.

Critical memory. Memory locations storing data essential to the functionality of the Class II gaming system.

DLL. A Dynamic-Link Library file.

Download package. Approved data sent to a component of a Class II gaming system for such purposes as changing the component software.

DVD. Digital Video Disk or Digital Versatile Disk.

Enroll. The process by which a class II gaming system identifies and establishes communications with an additional system component to allow for live gaming activity to take place on that component.

EPROM. Erasable Programmable Read Only Memory—a non-volatile storage chip or device that may be filled with data and information, that once written is not modifiable, and that is retained even if there is no power applied to the system.

Electromagnetic interference. The disruption of operation of an electronic device when it is in the vicinity of an electromagnetic field in the radio frequency spectrum that is caused by another electronic device.

Electrostatic discharge. A single event, rapid transfer of electrostatic charge between two objects, usually resulting when two objects at different potentials come into direct contact with each other.

Fault. An event that when detected by a Class II gaming system causes a discontinuance of game play or other component functions.

Financial instrument. Any tangible item of value tendered in Class II game play, including, but not limited to, bills, coins, vouchers and coupons.

Financial instrument acceptor. Any component that accepts financial instruments, such as a bill validator.

Financial instrument dispenser. Any component that dispenses financial instruments, such as a ticket printer.

Financial instrument storage component. Any component that stores financial instruments, such as a drop box.

Flash memory. Non-volatile memory that retains its data when the power is turned off and that can be electronically erased and reprogrammed without being removed from the circuit board.

Game software. The operational program or programs that govern the

play, display of results, and/or awarding of prizes or credits for Class II games.

Gaming equipment. All electronic, electro-mechanical, mechanical, or other physical components utilized in the play of Class II games.

Hardware. Gaming equipment.

Interruption. Any form of mis-operation, component failure, or interference to the Class II gaming equipment.

Modification. A revision to any hardware or software used in a Class II gaming system.

Non-cashable credit. Credits given by an operator to a patron; placed on a Class II gaming system through a coupon, cashless transaction or other approved means; and capable of activating play but not being converted to cash.

Patron. A person who is a customer or guest of the gaming operation and may interact with a Class II game. Also may be referred to as a ''player''.

Patron deposit account. An account maintained on behalf of a patron, for the purpose of depositing and withdrawing cashable funds for the primary purpose of interacting with a gaming activity.

Player interface. Any component or components of a Class II gaming system, including an electronic or technologic aid (not limited to terminals, player stations, handhelds, fixed units, etc.), that directly enables player interaction in a Class II game.

Prize schedule. The set of prizes available to players for achieving pre-designated patterns in the Class II game.

Program storage media. An electronic data storage component, such as a CD–ROM, EPROM, hard disk, or flash memory on which software is stored and from which software is read.

Progressive prize. A prize that increases by a selectable or predefined amount based on play of a Class II game.

Random number generator (RNG). A software module, hardware component or combination of these designed to produce outputs that are effectively random.

Reflexive software. Any software that has the ability to manipulate and/or replace a randomly generated outcome for the purpose of changing the results of a Class II game.

Removable/rewritable storage media. Program or data storage components that can be removed from gaming equipment and be written to, or rewritten by, the gaming equipment or by other equipment designed for that purpose.

Server. A computer that controls one or more applications or environments within a Class II gaming system.

Test/diagnostics mode. A mode on a component that allows various tests to be performed on the Class II gaming system hardware and software.

Testing laboratory. An organization recognized by a TGRA pursuant to § 547.5(f).

TGRA. Tribal gaming regulatory authority, which is the entity authorized by tribal law to regulate gaming conducted pursuant to the Indian Gaming Regulatory Act.

Unenroll. The process by which a class II gaming system disconnects an enrolled system component, disallowing any live gaming activity to take place on that component.

Voucher. A financial instrument of fixed wagering value, usually paper, that can only be used to acquire an equivalent value of cashable credits or cash through interaction with a voucher system.

Voucher system. A component of the Class II gaming system that securely maintains records of vouchers and coupons; validates payment of vouchers; records successful or failed payments of vouchers and coupons; and controls the purging of expired vouchers and coupons.

§ 547.3 Who is responsible for implementing these standards?

(a) *Minimum Standards.* These are minimum standards and a TGRA may establish and implement additional technical standards that do not conflict with the standards set out in this part.

(b) *No Limitation of Technology.* This part should not be interpreted to limit the use of technology or to preclude the use of technology not specifically referenced.

(c) *Only applicable standards apply.* Class II gaming system equipment and software must meet all applicable requirements of this part. For example, if a Class II gaming system lacks the ability to print or accept vouchers, then any standards that govern vouchers do not apply. These standards do not apply to associated equipment such as voucher and kiosk systems.

(d) *State Jurisdiction.* Nothing in this part shall be construed to grant to a state jurisdiction over Class II gaming or to extend a state's jurisdiction over Class III gaming.

§ 547.4 What are the rules of general application for this part?

(a) *Fairness.* No Class II gaming system may cheat or mislead users. All prizes advertised must be available to win during the game. Test laboratory must calculate and/or verify the mathematical expectations of game play, where applicable, in accordance with the manufacturer stated submission. The results must be included in the test laboratory's report to the TGRA. At the request of the TGRA, the manufacturer must also submit the mathematical expectations of the game play to the TGRA.

(b) *Approved equipment and software only.* All gaming equipment and software used with Class II gaming systems must be identical in all respects to a prototype reviewed and tested by a testing laboratory and approved for use by the TGRA pursuant to § 547.5(a) through (c).

(c) *Proper functioning.* All gaming equipment and software used with Class II gaming systems must perform according to the manufacturer's design and operating specifications.

§ 547.5 How does a tribal government, TGRA, or tribal gaming operation comply with this part?

(a) *Limited immediate compliance.* A tribal gaming regulatory authority shall:

(1) Require that all Class II gaming system software that affects the play of the Class II game be submitted, together with the signature verification required by § 547.8(f), to a testing laboratory recognized pursuant to paragraph (f) of this section within 120 days after November 10, 2008;

(2) Require that the testing laboratory test the submission to the standards established by § 547.8(b), § 547.8(f), § 547.14, and to any additional technical standards adopted by the TGRA;

(3) Require that the testing laboratory provide the TGRA with a formal written report setting forth and certifying to the findings and conclusions of the test;

(4) Make a finding, in the form of a certificate provided to the supplier or manufacturer of the Class II gaming system, that the Class II gaming system qualifies for grandfather status under the provisions of this section, but only upon receipt of a testing laboratory's report that the Class II gaming system is compliant with § 547.8(b), § 547.8(f), § 547.14, and any other technical standards adopted by the TGRA. If the TGRA does not issue the certificate, or if the testing laboratory finds that the Class II gaming system is not compliant with § 547.8(b), § 547.8(f), § 547.14, or any other technical standards adopted by the TGRA, then the gaming system shall immediately be removed from play and not be utilized.

(5) Retain a copy of any testing laboratory's report so long as the Class II gaming system that is the subject of the report remains available to the public for play;

(6) Retain a copy of any certificate of grandfather status so long as the Class II gaming system that is the subject of

the certificate remains available to the public for play; and

(7) Require the supplier of any player interface to designate with a permanently affixed label each player interface with an identifying number and the date of manufacture or a statement that the date of manufacture was on or before November 10, 2008. The tribal gaming regulatory authority shall also require the supplier to provide a written declaration or affidavit affirming that the date of manufacture was on or before November 10, 2008.

(b) *Grandfather provisions.* All Class II gaming systems manufactured before November 10, 2008, and certified pursuant to paragraph (a) of this section are grandfathered Class II gaming systems for which the following provisions apply:

(1) Grandfathered Class II gaming systems may continue in operation for a period of five years from November 10, 2008.

(2) Grandfathered Class II gaming system shall be available for use at any tribal gaming facility subject to approval by the TGRA, which shall transmit its notice of that approval, identifying the grandfathered Class II gaming system and its components, to the Commission.

(3) As permitted by the TGRA, individual hardware or software components of a grandfathered Class II gaming system may be repaired or replaced to ensure proper functioning, security, or integrity of the grandfathered Class II gaming system.

(4) All modifications that affect the play of a grandfathered Class II gaming system must be approved pursuant to paragraph (c) of this section, except for the following:

(i) Any software modifications that the TGRA finds will maintain or advance the Class II gaming system's overall compliance with this part or any applicable provisions of part 543 of this chapter, after receiving a new testing laboratory report that the modifications are compliant with the standards established by § 547.8(b), § 547.14, and any other standards adopted by the TGRA;

(ii) Any hardware modifications that the TGRA finds will maintain or advance the system's overall compliance with this part or any applicable provisions of part 543 of this chapter; and

(iii) Any other modification to the software of a grandfathered Class II gaming system that the TGRA finds will not detract from, compromise or prejudice:

(A) The proper functioning, security, or integrity of the Class II gaming system, and

(B) The gaming system's overall compliance with the requirements of this part or any applicable provisions of part 543 of this chapter.

(iv) No such modification may be implemented without the approval of the TGRA. The TGRA shall maintain a record of the modification so long as the Class II gaming system that is the subject of the modification remains available to the public for play and shall make the record available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).

(c) *Submission, testing, and approval—generally.* Except as provided in paragraphs (b) and (d) of this section, a TGRA may not permit the use of any Class II gaming system, or any associated cashless system or voucher system or any modification thereto, in a tribal gaming operation unless:

(1) The Class II gaming system, cashless system, voucher payment system, or modification thereto has been submitted to a testing laboratory;

(2) The testing laboratory tests the submission to the standards established by:

(i) This part;

(ii) Any applicable provisions of part 543 of this chapter that are testable by the testing laboratory; and

(iii) The TGRA;

(3) The testing laboratory provides a formal written report to the party making the submission, setting forth and certifying to its findings and conclusions, and noting compliance with any standard established by the TGRA pursuant to (c)(2)(iii) of this section;

(4) The testing laboratory's written report confirms that the operation of each player interface has been certified that it will not be compromised or affected by electrostatic discharge, liquid spills, electromagnetic interference, radio frequency interference, or any other tests required by the TGRA;

(5) Following receipt of the testing laboratory's report, the TGRA makes a finding that the Class II gaming system, cashless system, or voucher system conforms to the standards established by:

(A) This part;

(B) Any applicable provisions of part 543 of this chapter that are testable by the testing laboratory; and

(C) The TGRA.

(6) The TGRA must retain a copy of the testing laboratory's report required by paragraph (c) of this section so long as the Class II gaming system, cashless system, voucher system, or modification thereto that is the subject of the report remains available to the public for play in its gaming operation.

(d) *Emergency hardware and software modifications.*

(1) A TGRA, in its discretion, may permit the modification of previously approved hardware or software to be made available for play without prior laboratory testing or review if the modified hardware or software is:

(i) Necessary to correct a problem affecting the fairness, security, or integrity of a game or accounting system or any cashless system, or voucher system; or

(ii) Unrelated to game play, an accounting system, a cashless system, or a voucher system.

(2) If a TGRA authorizes modified software or hardware to be made available for play or use without prior testing laboratory review, the TGRA must thereafter require the hardware or software manufacturer to:

(i) Immediately advise other users of the same hardware or software of the importance and availability of the update;

(ii) Immediately submit the new or modified hardware or software to a testing laboratory for testing and verification of compliance with this part and any applicable provisions of part 543 of this chapter that are testable by the testing laboratory; and

(iii) Immediately provide the TGRA with a software signature verification tool meeting the requirements of § 547.8(f) for any new or modified software.

(3) If a TGRA authorizes a software or hardware modification under this paragraph, it must maintain a record of the modification and a copy of the testing laboratory report so long as the Class II gaming system that is the subject of the modification remains available to the public for play and must make the record available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).

(e) *Compliance by charitable gaming operations.* This part does not apply to

charitable gaming operations, provided that:

(1) The tribal government determines that the organization sponsoring the gaming operation is a charitable organization;

(2) All proceeds of the charitable gaming operation are for the benefit of the charitable organization;

(3) The TGRA permits the charitable organization to be exempt from this part;

(4) The charitable gaming operation is operated wholly by the charitable organization's employees or volunteers; and

(5) The annual gross gaming revenue of the charitable gaming operation does not exceed $1,000,000.

(f) *Testing laboratories.*

(1) A testing laboratory may provide the examination, testing, evaluating and reporting functions required by this section provided that:

(i) It demonstrates its integrity, independence and financial stability to the TGRA.

(ii) It demonstrates its technical skill and capability to the TGRA.

(iii) If the testing laboratory is owned or operated by, or affiliated with, a tribe, it must be independent from the manufacturer and gaming operator for whom it is providing the testing, evaluating, and reporting functions required by this section.

(iv) The TGRA:

(A) Makes a suitability determination of the testing laboratory based upon standards no less stringent than those set out in §§ 533.6(b)(1)(ii) through (v) of this chapter and based upon no less information than that required by § 537.1 of this chapter, or

(B) Accepts, in its discretion, a determination of suitability for the testing laboratory made by any other gaming regulatory authority in the United States.

(v) After reviewing the suitability determination and the information provided by the testing laboratory, the TGRA determines that the testing laboratory is qualified to test and evaluate Class II gaming systems.

(2) The TGRA must:

(i) Maintain a record of all determinations made pursuant to paragraphs (f)(1)(iii) and (f)(1)(iv) of this section for a minimum of three years and must make the records available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).

(ii) Place the testing laboratory under a continuing obligation to notify it of any adverse regulatory action in any jurisdiction where the testing laboratory conducts business.

(iii) Require the testing laboratory to provide notice of any material changes to the information provided to the TGRA.

§ 547.6 What are the minimum technical standards for enrolling and enabling Class II gaming system components?

(a) *General requirements.* Class II gaming systems must provide a method to:

(1) Enroll and unenroll Class II gaming system components;

(2) Enable and disable specific Class II gaming system components.

(b) *Specific requirements.* Class II gaming systems must:

(1) Ensure that only enrolled and enabled Class II gaming system components participate in gaming; and

(2) Ensure that the default condition for components must be unenrolled and disabled.

§ 547.7 What are the minimum technical hardware standards applicable to Class II gaming systems?

(a) *Printed circuit boards.*

(1) Printed circuit boards that have the potential to affect the outcome or integrity of the game, and are specially manufactured or proprietary and not off-the-shelf, must display a unique identifier such as a part number and/or revision number, which must be updated to reflect new revisions or modifications of the board.

(2) Switches or jumpers on all circuit boards that have the potential to affect the outcome or integrity of any game, progressive award, financial instrument, cashless transaction, voucher transaction, or accounting records must be capable of being sealed.

(b) *Electrostatic discharge.* Class II gaming system components accessible to the public must be constructed so that they exhibit immunity to human body electrostatic discharges on areas exposed to contact. Static discharges of ±15 kV for air discharges and ±7.5 kV for contact discharges must not cause damage or inhibit operation or integrity of the Class II gaming system.

(c) *Physical enclosures.* Physical enclosures must be of a robust construction designed to resist determined illegal entry. All protuberances and attachments such as buttons, identification plates, and labels must be sufficiently robust to avoid unauthorized removal.

(d) *Player interface.* The player interface must be labeled with the serial number and date of manufacture and include a method or means to:

(1) Display information to a player; and

(2) Allow the player to interact with the Class II gaming system.

(e) *Account access components.* A Class II gaming system component that reads account access media must be located within a secure and locked area, cabinet, or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components. In addition, the account access component:

(1) Must be constructed so that physical tampering leaves evidence of such tampering; and

(2) Must provide a method to enable the Class II gaming system to interpret and act upon valid or invalid input or error condition.

(f) *Financial instrument storage components.* Any Class II gaming system components that store financial instruments and that are not operated under the direct control of a gaming operation employee or agent must be located within a secure and locked area, cabinet, or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components.

(g) *Financial instrument acceptors.*

(1) Any Class II gaming system components that handle financial instruments and that are not operated under the direct control of an agent must:

(i) Be located within a secure and locked area, cabinet, or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components;

(ii) Be able to detect the entry of valid or invalid financial instruments and to provide a method to enable the Class II gaming system to interpret and act upon valid or invalid input or error condition; and

(iii) Be constructed to permit communication with the Class II gaming system of the accounting information required by § 547.9(a) and by applicable provisions of any Commission and TGRA regulations governing minimum internal control standards.

(2) Prior to completion of a valid financial instrument transaction by the Class II gaming system, no monetary amount related to that instrument may be available for play. For example, credits may not be available for play until currency or coupon inserted into an acceptor is secured in the storage component.

(3) The monetary amount related to all valid financial instrument transactions by the Class II gaming

system must be recorded as required by § 547.9(a) and the applicable provisions of any Commission and TGRA regulations governing minimum internal control standards.

(h) *Financial instrument dispensers.*

(1) Any Class II gaming system components that dispense financial instruments and that are not operated under the direct control of a gaming operation employee or agent must:

(i) Be located within a secure, locked and tamper-evident area or in a locked cabinet or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components;

(ii) Provide a method to enable the Class II gaming system to interpret and act upon valid or invalid input or error condition; and

(iii) Be constructed to permit communication with the Class II gaming system of the accounting information required by § 547.9(a) and by applicable provisions of any Commission and TGRA regulations governing minimum internal control standards.

(2) The monetary amount related to all valid financial instrument transactions by the Class II gaming system must be recorded as required by § 547.9(a), the applicable provisions of part 543 of this chapter, and any TGRA regulations governing minimum internal control standards.

(i) *Game Outcome Determination Components.* Any Class II gaming system logic components that affect the game outcome and that are not operated under the direct control of a gaming operation employee or agent must be located within a secure, locked and tamper-evident area or in a locked cabinet or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components. DIP switches or jumpers that can affect the integrity of the Class II gaming system must be capable of being sealed by the TGRA.

(j) *Door access detection.* All components of the Class II gaming system that are locked in order to meet the requirements of this part must include a sensor or other methods to monitor an open door. A door open sensor, and its components or cables, must be secure against attempts to disable them or interfere with their normal mode of operation.

(k) *Separation of functions/no limitations on technology.* Nothing herein prohibits the account access component, financial instrument storage component, financial instrument acceptor, and financial instrument dispenser from being included within the same component or being separated into individual components.

§ 547.8 What are the minimum technical software standards applicable to Class II gaming systems?

(a) *Player interface displays.*

(1) If not otherwise provided to the player, the player interface must display the following:

(i) The purchase or wager amount;

(ii) Game results; and

(iii) Any player credit balance.

(2) Between plays of any game and until the start of the next play, or until the player selects a new game option such as purchase or wager amount or card selection, whichever is earlier, if not otherwise provided to the player, the player interface must display:

(i) The total purchase or wager amount and all prizes and total credits won for the last game played;

(ii) The final results for the last game played; and

(iii) Any default purchase or wager amount for the next play.

(b) *Game initiation and play.*

(1) Each game played on the Class II gaming system must follow and not deviate from a constant set of rules for each game provided to players pursuant to § 547.16. There must be no automatic or undisclosed changes of rules.

(2) The Class II gaming system may not alter or allow to be altered the card permutations used for play of a Class II game unless specifically chosen by the player prior to commitment to participate in the game. No duplicate cards may be sold for any common draw.

(3) No game play may commence and, no financial instrument or credit may be accepted on the affected player interface, in the presence of any fault condition that affects the outcome of the game, open door, or while in test, audit, or lock-up mode.

(4) No game play may commence unless initiated by a player.

(c) *Audit Mode.*

(1) If an audit mode is provided, the Class II gaming system must provide, for those components actively involved in the audit:

(i) All accounting functions required by § 547.9, by applicable provisions of any Commission regulations governing minimum internal control standards, and by any internal controls adopted by the tribe or TGRA;

(ii) Display player interface identification; and

(iii) Display software version or game identification;

(2) Audit mode must be accessible by a secure method such as an agent PIN, key, or other auditable access control.

(3) Accounting function data must be accessible by an agent at any time, except during a payout, during a handpay, or during play.

(4) The Class II gaming system must disable financial instrument acceptance on the affected player interface while in audit mode, except during financial instrument acceptance testing.

(d) *Last game recall.* The last game recall function must:

(1) Be retrievable at all times, other than when the recall component is involved in the play of a game, upon the operation of an external key-switch, entry of an audit card, or a similar method;

(2) Display the results of recalled games as originally displayed or in text representation so as to enable the TGRA or operator to clearly identify the sequences and results that occurred;

(3) Allow the Class II gaming system component providing game recall, upon return to normal game play mode, to restore any affected display to the positions, forms and values displayed before access to the game recall information; and

(4) Provide the following information for the current and previous four games played and must display:

(i) Play start time, end time, and date;

(ii) The total number of credits at the start of play;

(iii) The purchase or wager amount;

(iv) The total number of credits at the end of play;

(v) The total number of credits won as a result of the game recalled, and the value in dollars and cents for progressive prizes, if different;

(vi) For bingo games and games similar to bingo, also display:

(A) The card(s) used by the player;

(B) The identifier of the bingo game played;

(C) The numbers or other designations drawn, in the order that they were drawn;

(D) The numbers or other designations and prize patterns covered on each card;

(E) All prizes won by the player, including winning patterns, if any; and

(F) The unique identifier of the card on which prizes were won;

(vii) For pull-tab games only, also display:

(A) The result(s) of each pull-tab, displayed in the same pattern as on the tangible pull-tab;

(B) All prizes won by the player;

(C) The unique identifier of each pull tab; and

(D) Any other information necessary to fully reconstruct the current and four previous plays.

(e) *Voucher and credit transfer recall.* Notwithstanding the requirements of

any other section in this part, a Class II gaming system must have the capacity to:

(1) Display the information specified in § 547.11(b)(5)(ii) through (vi) for the last five vouchers or coupons printed and the last five vouchers or coupons accepted; and

(2) Display a complete transaction history for the last five cashless transactions made and the last five cashless transactions accepted.

(f) *Software signature verification.* The manufacturer or developer of the Class II gaming system must provide to the testing laboratory and to the TGRA an industry-standard methodology, acceptable to the TGRA, for verifying the Class II gaming system game software. By way of illustration, for game software stored on rewritable media, such methodologies include signature algorithms and hashing formulas such as SHA–1.

(g) *Test, diagnostic, and demonstration modes.* If test, diagnostic, and/or demonstration modes are provided, the Class II gaming system must, for those components actively involved in the test, diagnostic, or demonstration mode:

(1) Clearly indicate when that component is in the test, diagnostic, or demonstration mode;

(2) Not alter financial data on that component other than temporary data;

(3) Only be available after entering a specific mode;

(4) Disable credit acceptance and payment unless credit acceptance or payment is being tested; and

(5) Terminate all mode-specific functions upon exiting a mode.

(h) *Multigame.* If multiple games are offered for player selection at the player interface, the player interface must:

(1) Provide a display of available games;

(2) Provide the means of selecting among them;

(3) Display the full amount of the player's credit balance;

(4) Identify the game selected or being played; and

(5) Not force the play of a game after its selection.

(i) *Program interruption and resumption.* The Class II gaming system software must be designed so that upon resumption following any interruption, the system:

(1) Is able to return to a known state;

(2) Must check for any fault condition;

(3) Must verify the integrity of data stored in critical memory;

(4) Must return the purchase or wager amount to the player in accordance with the rules of the game; and

(5) Must detect any change or corruption in the Class II gaming system software.

(j) *Class II gaming system components acting as progressive controllers.* This paragraph applies to progressive controllers and components acting as progressive controllers in Class II gaming systems.

(1) Modification of progressive parameters must be conducted in a secure manner approved by the TGRA. Such parameters may include:

(i) Increment value;

(ii) Secondary pool increment(s);

(iii) Reset amount(s);

(iv) Maximum value(s); and

(v) Identity of participating player interfaces.

(2) The Class II gaming system component or other progressive controller must provide a means of creating a progressive balancing report for each progressive link it controls. At a minimum, that report must provide balancing of the changes of the progressive amount, including progressive prizes won, for all participating player interfaces versus current progressive amount(s), plus progressive prizes. In addition, the report must account for, and not be made inaccurate by, unusual events such as:

(i) Class II gaming system critical memory clears;

(ii) Modification, alteration, or deletion of progressive prizes;

(iii) Offline equipment; or

(iv) Multiple site progressive prizes.

(k) *Critical memory.*

(1) Critical memory may be located anywhere within the Class II gaming system. Critical memory is any memory that maintains any of the following data:

(i) Accounting data;

(ii) Current credits;

(iii) Configuration data;

(iv) Last game play recall information required by § 547.8(d);

(v) Game play recall information for the current game play, if incomplete;

(vi) Software state (the last normal state software was in before interruption);

(vii) RNG seed(s), if necessary for maintaining integrity;

(viii) Encryption keys, if necessary for maintaining integrity;

(ix) Progressive prize parameters and current values;

(x) The five most recent financial instruments accepted by type, excluding coins and tokens;

(xi) The five most recent financial instruments dispensed by type, excluding coins and tokens; and

(xii) The five most recent cashless transactions paid and the five most recent cashless transactions accepted.

(2) Critical memory must be maintained using a methodology that enables errors to be identified and acted upon. All accounting and recall functions must be verified as necessary to ensure their ongoing integrity.

(3) The validity of affected data stored in critical memory must be checked after each of the following events:

(i) Every restart;

(ii) Each attendant paid win;

(iii) Each sensored door closure; and

(iv) Every reconfiguration, download, or change of prize schedule or denomination requiring operator intervention or action.

(l) *Secured access.* Class II gaming systems that use a logon or other means of secured access must include a user account lockout after a predetermined number of consecutive failed attempts to access the Class II gaming system.

§ 547.9 What are the minimum technical standards for Class II gaming system accounting functions?

(a) *Required accounting data.* The following minimum accounting data, however named, must be maintained by the Class II gaming system:

(1) Amount In: The total value of all financial instruments and cashless transactions accepted by the Class II gaming system. Each type of financial instrument accepted by the Class II gaming system must be tracked independently per financial instrument acceptor, and as required by applicable requirements of TGRA regulations that meet or exceed the minimum internal control standards at 25 CFR part 543.

(2) Amount Out: The total value of all financial instruments and cashless transactions paid by the Class II gaming system, plus the total value of attendant pay. Each type of financial instrument paid by the Class II Gaming System must be tracked independently per financial instrument dispenser, and as required by applicable requirements of TGRA regulations that meet or exceed the minimum internal control standards at 25 CFR part 543.

(b) *Accounting data storage.* If the Class II gaming system electronically maintains accounting data:

(1) Accounting data must be stored with at least eight decimal digits.

(2) Credit balances must have sufficient digits to accommodate the design of the game.

(3) Accounting data displayed to the player may be incremented or decremented using visual effects, but the internal storage of this data must be immediately updated in full.

(4) Accounting data must be updated upon the occurrence of the relevant accounting event.

(5) Modifications to accounting data must be recorded, including the identity of the person(s) making the modifications, and be reportable by the Class II gaming system.

(c) *Rollover.* Accounting data that rolls over to zero must not corrupt data.

(d) *Credit balance display and function.*

(1) Any credit balance maintained at the player interface must be prominently displayed at all times except:

(i) In audit, configuration, recall and test modes; or

(ii) Temporarily, during entertaining displays of game results.

(2) Progressive prizes may be added to the player's credit balance provided:

(i) The player credit balance is maintained in dollars and cents;

(ii) The progressive accounting data is incremented in number of credits; or

(iii) The prize in dollars and cents is converted to player credits or transferred to the player's credit balance in a manner that does not mislead the player or cause accounting imbalances.

(3) If the player credit balance displays in credits, but the actual balance includes fractional credits, the Class II gaming system must display the fractional credit when the player credit balance drops below one credit.

§ 547.10 What are the minimum standards for Class II gaming system critical events?

(a) *Fault events.*

(1) The following are fault events that must be capable of being recorded by the Class II gaming system:

Event	Definition and action to be taken
(i) Component fault	Reported when a fault on a component is detected. When possible, this event message should indicate what the nature of the fault is.
(ii) Financial storage component full	Reported when a financial instrument acceptor or dispenser includes storage, and it becomes full. This event message must indicate what financial storage component is full.
(iii) Financial output component empty.	Reported when a financial instrument dispenser is empty. The event message must indicate which financial output component is affected, and whether it is empty.
(iv) Financial component fault	Reported when an occurrence on a financial component results in a known fault state.
(v) Critical memory error	Some critical memory error has occurred. When a non-correctable critical memory error has occurred, the data on the Class II gaming system component can no longer be considered reliable. Accordingly, any game play on the affected component must cease immediately, and an appropriate message must be displayed, if possible.
(vi) Progressive communication fault.	If applicable; when communications with a progressive controller component is in a known fault state.
(vii) Program storage medium fault	The software has failed its own internal security check or the medium itself has some fault. Any game play on the affected component must cease immediately, and an appropriate message must be displayed, if possible.

(2) The occurrence of any event identified in paragraph (a)(1) of this section must be recorded.

(3) Upon clearing any event identified in paragraph (a)(1) of this section, the Class II gaming system must:

(i) Record that the fault condition has been cleared;

(ii) Ensure the integrity of all related accounting data; and

(iii) In the case of a malfunction, return a player's purchase or wager according to the rules of the game.

(b) *Door open/close events.*

(1) In addition to the requirements of paragraph (a)(1) of this section, the Class II gaming system must perform the following for any component affected by any sensored door open event:

(i) Indicate that the state of a sensored door changes from closed to open or opened to closed;

(ii) Disable all financial instrument acceptance, unless a test mode is entered;

(iii) Disable game play on the affected player interface;

(iv) Disable player inputs on the affected player interface, unless test mode is entered; and

(v) Disable all financial instrument disbursement, unless a test mode is entered.

(2) The Class II gaming system may return the component to a ready to play state when all sensored doors are closed.

(c) *Non-fault events.* (1) The following non-fault events are to be acted upon as described below, if applicable:

Event	Definition
(i) Player interface off during play	Indicates power has been lost during game play. This condition must be reported by the affected component(s).
(ii) Player interface power on	Indicates the player interface has been turned on. This condition must be reported by the affected component(s).
(iii) Financial instrument storage component container/stacker removed.	Indicates that a financial instrument storage container has been removed. The event message must indicate which storage container was removed.

§ 547.11 What are the minimum technical standards for money and credit handling?

(a) *Credit acceptance, generally.*

(1) Upon any credit acceptance, the Class II gaming system must register the correct number of credits on the player's credit balance.

(2) The Class II gaming system must reject financial instruments deemed invalid.

(b) *Credit redemption, generally.*

(1) For cashable credits on a player interface, players must be allowed to cash out and/or redeem those credits at the player interface except when that player interface is:

(i) Involved in the play of a game;

(ii) In audit mode, recall mode or any test mode;

(iii) Detecting any sensored door open condition;

(iv) Updating the player credit balance or total win accounting data; or

(v) Displaying a fault condition that would prevent cash-out or credit

redemption. In this case a fault indication must be displayed.

(2) For cashable credits not on a player interface, the player must be allowed to cash out and/or redeem those credits at any time.

(3) A Class II gaming system must not automatically pay an award subject to mandatory tax reporting or withholding.

(4) Credit redemption by voucher or coupon must conform to the following:

(i) A Class II gaming system may redeem credits by issuing a voucher or coupon when it communicates with a voucher system that validates the voucher or coupon.

(ii) A Class II gaming system that redeems credits by issuing vouchers and coupons must either:

(A) Maintain an electronic record of all information required by paragraphs (b)(5)(ii) through (vi) of this section; or

(B) Generate two identical copies of each voucher or coupon issued, one to be provided to the player and the other to be retained within the electronic player interface for audit purposes.

(5) Valid vouchers and coupons from a voucher system must contain the following:

(i) Gaming operation name and location;

(ii) The identification number of the Class II gaming system component or the player interface number, as applicable;

(iii) Date and time of issuance;

(iv) Alpha and numeric dollar amount;

(v) A sequence number;

(vi) A validation number that:

(A) Is produced by a means specifically designed to prevent repetition of validation numbers; and

(B) Has some form of checkcode or other form of information redundancy to prevent prediction of subsequent validation numbers without knowledge of the checkcode algorithm and parameters;

(vii) For machine-readable vouchers and coupons, a bar code or other form of machine readable representation of the validation number, which must have enough redundancy and error checking to ensure that 99.9% of all misreads are flagged as errors;

(viii) Transaction type or other method of differentiating voucher and coupon types; and

(ix) Expiration period or date.

(6) Transfers from an account may not exceed the balance of that account.

(7) For Class II gaming systems not using dollars and cents accounting and not having odd cents accounting, the Class II gaming system must reject any transfers from voucher payment systems or cashless systems that are not even multiples of the Class II gaming system denomination.

(8) Voucher redemption systems must include the ability to report redemptions per redemption location or user.

§ 547.12 What are the minimum technical standards for downloading on a Class II gaming system?

(a) *Downloads.*

(1) Downloads are an acceptable means of transporting approved content, including but not limited to software, files, data, and prize schedules.

(2) Downloads must use secure methodologies that will deliver the download data without alteration or modification, in accordance with § 547.15(a).

(3) Downloads conducted during operational periods must be performed in a manner that will not affect game play.

(4) Downloads must not affect the integrity of accounting data.

(5) The Class II gaming system must be capable of providing:

(i) The time and date of the initiation of the download;

(ii) The time and date of the completion of the download;

(iii) The Class II gaming system components to which software was downloaded;

(iv) The version(s) of download package and any software downloaded. Logging of the unique software signature will satisfy this requirement;

(v) The outcome of any software verification following the download (success or failure); and

(vi) The name and identification number, or other unique identifier, of any individual(s) conducting or scheduling a download.

(b) *Verifying downloads.* Downloaded software on a Class II gaming system must be capable of being verified by the Class II gaming system using a software signature verification method that meets the requirements of § 547.8(f).

§ 547.13 What are the minimum technical standards for program storage media?

(a) *Removable program storage media.* All removable program storage media must maintain an internal checksum or signature of its contents. Verification of this checksum or signature is to be performed after every restart. If the verification fails, the affected Class II gaming system component(s) must lock up and enter a fault state.

(b) *Nonrewritable program storage media.*

(1) All EPROMs and Programmable Logic Devices that have erasure windows must be fitted with covers over their erasure windows.

(2) All unused areas of EPROMs must be written with the inverse of the erased state (zero bits (00 hex) for most EPROMs), random data, or repeats of the program data.

(3) Flash memory storage components intended to have the same logical function as ROM, must be write-protected or otherwise protected from unauthorized modification.

(4) The write cycle must be closed or finished for all CD–ROMs such that it is not possible to write any further data to the CD.

(5) Write protected hard disks are permitted if the hardware means of enabling the write protect is easily viewable and can be sealed in place. Write protected hard disks are permitted using software write protection verifiable by a testing laboratory.

(c) *Writable and rewritable program storage media.*

(1) Writable and rewritable program storage, such as hard disk drives, Flash memory, writable CD–ROMs, and writable DVDs, may be used provided that the software stored thereon may be verified using the mechanism provided pursuant to § 547.8(f).

(2) Program storage must be structured so there is a verifiable separation of fixed data (such as program, fixed parameters, DLLs) and variable data.

(d) *Identification of program storage media.* All program storage media that is not rewritable in circuit, (EPROM, CD–ROM) must be uniquely identified, displaying:

(1) Manufacturer;

(2) Program identifier;

(3) Program version number(s); and

(4) Location information, if critical (socket position 3 on the printed circuit board).

§ 547.14 What are the minimum technical standards for electronic random number generation?

(a) *Properties.* All RNGs must produce output having the following properties:

(1) Statistical randomness;

(2) Unpredictability; and

(3) Non-repeatability.

(b) *Statistical Randomness.*

(1) Numbers or other designations produced by an RNG must be statistically random individually and in the permutations and combinations used in the application under the rules of the game. For example, if a bingo game with 75 objects with numbers or other designations has a progressive winning pattern of the five numbers or other designations on the bottom of the card, and the winning of this prize is defined to be the five numbers or other designations that are matched in the

first five objects drawn, the likelihood of each of the 75C5 combinations are to be verified to be statistically equal.

(2) Numbers or other designations produced by an RNG must pass the statistical tests for randomness to a 99% confidence level.

(i) Mandatory statistical tests for randomness include:

(A) Chi-square test;

(B) Runs test (patterns of occurrences must not be recurrent); and

(C) Serial correlation test potency and degree of serial correlation (outcomes must be independent from the previous game).

(ii) Where applicable statistical tests for randomness may include:

(A) Equi-distribution (frequency) test;

(B) Gap test;

(C) Poker test;

(D) Coupon collector's test;

(E) Permutation test;

(F) Spectral test; or

(G) Test on subsequences.

(c) *Unpredictability.*

(1) It must not be feasible to predict future outputs of an RNG, even if the algorithm and the past sequence of outputs are known.

(2) Unpredictability must be ensured by reseeding or by continuously cycling the RNG, and by providing a sufficient number of RNG states for the applications supported.

(3) Re-seeding may be used where the re-seeding input is at least as statistically random as, and independent of, the output of the RNG being re-seeded.

(d) *Non-repeatability.* The RNG may not be initialized to reproduce the same output stream that it has produced before, nor may any two instances of an RNG produce the same stream as each other. This property must be ensured by initial seeding that comes from:

(1) A source of ''true'' randomness, such as a hardware random noise generator; or

(2) A combination of timestamps, parameters unique to a Class II gaming system, previous RNG outputs, or other, similar method.

(e) *General requirements.*

(1) Software that calls an RNG to derive game outcome events must immediately use the output returned in accordance with the game rules.

(2) The use of multiple RNGs is permitted as long as they operate in accordance with this section.

(3) RNG outputs must not be arbitrarily discarded or selected.

(4) Where a sequence of outputs is required, the whole of the sequence in the order generated must be used in accordance with the game rules.

(5) The Class II gaming system must neither adjust the RNG process or game outcomes based on the history of prizes obtained in previous games nor use any reflexive software or secondary decision that affects the results shown to the player or game outcome.

(f) *Scaling algorithms and scaled numbers.* An RNG that provides output scaled to given ranges must:

(1) Be independent and uniform over the range;

(2) Provide numbers scaled to the ranges required by game rules, and notwithstanding the requirements of paragraph (e)(3) of this section, may discard numbers that do not map uniformly onto the required range but must use the first number in sequence that does map correctly to the range;

(3) Be capable of producing every possible outcome of a game according to its rules; and

(4) Use an unbiased algorithm and any bias must be reported to the TGRA.

§ 547.15 What are the minimum technical standards for electronic data communications between system components?

(a) *Sensitive data.* Communication of sensitive data must be secure from eavesdropping, access, tampering, intrusion or alteration unauthorized by the TGRA. Sensitive data includes, but is not limited to:

(1) RNG seeds and outcomes;

(2) Encryption keys, where the implementation chosen requires transmission of keys;

(3) PINs;

(4) Passwords;

(5) Financial instrument transactions;

(6) Transfers of funds;

(7) Player tracking information;

(8) Download Packages; and

(9) Any information that affects game outcome.

(b) *Wireless communications.*

(1) Wireless access points must not be accessible to the general public.

(2) Open or unsecured wireless communications are prohibited.

(3) Wireless communications must be secured using a methodology that makes eavesdropping, access, tampering, intrusion or alteration impractical. By way of illustration, such methodologies include encryption, frequency hopping, and code division multiplex access (as in cell phone technology).

(c) Methodologies must be used that will ensure the reliable transfer of data and provide a reasonable ability to detect and act upon any corruption of the data.

(d) Class II gaming systems must record detectable, unauthorized access or intrusion attempts.

(e) Remote communications must only be allowed if authorized by the TGRA. Class II gaming systems must have the ability to enable or disable remote access, and the default state must be set to disabled.

(f) Failure of data communications must not affect the integrity of critical memory.

(g) The Class II gaming system must log the establishment, loss, and re-establishment of data communications between sensitive Class II gaming system components.

§ 547.16 What are the minimum standards for game artwork, glass, and rules?

(a) *Rules, instructions, and prize schedules, generally.* The following must at all times be displayed or made readily available to the player upon request:

(1) Game name, rules, and options such as the purchase or wager amount stated clearly and unambiguously;

(2) Denomination;

(3) Instructions for play on, and use of, the player interface, including the functions of all buttons; and

(4) A prize schedule or other explanation, sufficient to allow a player to determine the correctness of all prizes awarded, including;

(i) The range and values obtainable for any variable prize;

(ii) Whether the value of a prize depends on the purchase or wager amount; and

(iii) The means of division of any pari-mutuel prizes; but

(iv) For Class II Gaming Systems, the prize schedule or other explanation need not state that subsets of winning patterns are not awarded as additional prizes (for example, five in a row does not also pay three in a row or four in a row), unless there are exceptions, which must be clearly stated.

(b) *Disclaimers.* The Player Interface must continually display:

(1) ''Malfunctions void all prizes and plays'' or equivalent; and

(2) ''Actual Prizes Determined by Bingo [or other applicable Class II game] Play. Other Displays for Entertainment Only'' or equivalent.

(c) Odds notification. If the odds of winning any advertised top prize exceeds 100 million to one, the Player Interface must display ''Odds of winning the advertised top prize exceeds 100 million to one'' or equivalent.

§ 547.17 How does a TGRA apply to implement an alternate standard to those required by this part?

(a) *TGRA approval.*

(1) A TGRA may approve an alternate standard from those required by this part if it has determined that the

alternate standard will achieve a level of security and integrity sufficient to accomplish the purpose of the standard it is to replace.

(2) For each enumerated standard for which the TGRA approves an alternate standard, it must submit to the Chair within 30 days, a detailed report, which must include the following:

(i) An explanation of how the alternate standard achieves a level of security and integrity sufficient to accomplish the purpose of the standard it is to replace; and

(ii) The alternate standard as approved and the record on which the approval is based.

(3) In the event that the TGRA or the tribe's government chooses to submit an alternate standard request directly to the Chair for joint government to government review, the TGRA or tribal government may do so without the approval requirement set forth in paragraph (a)(1) of this section.

(b) *Chair Review.*

(1) The Chair may approve or object to an alternate standard granted by a TGRA.

(2) Any objection by the Chair must be in written form with an explanation why the alternate standard as approved by the TGRA does not provide a level of security or integrity sufficient to accomplish the purpose of the standard it is to replace.

(3) If the Chair fails to approve or object in writing within 60 days after the date of receipt of a complete submission, the alternate standard is considered approved by the Chair. The Chair may, upon notification to the TGRA, extend this deadline an additional 60 days.

(4) No alternate standard may be implemented until it has been approved by the TGRA pursuant to paragraph (a)(1) of this section or the Chair has approved pursuant to paragraph (b)(1) of this section.

(c) *Appeal of Chair decision.* A Chair's decision may be appealed pursuant to 25 CFR subchapter H.

Dated this 22nd of May 2012.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Commissioner.

[FR Doc. 2012–12992 Filed 5–31–12; 8:45 am]

BILLING CODE 7565–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2010–0912; FRL–9680–2]

Approval and Promulgation of State Implementation Plans: Oregon

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 Oregon (the State) on October 6, 2010, and an August 31, 2011, supplementary letter, for the purpose of establishing transportation conformity criteria and procedures related to interagency consultation, and enforceability of certain transportation related control and mitigation measures.

DATES: Comments must be received on or before July 2, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2010–0912, by one of the following methods:

- *www.regulations.gov.:* Follow the on-line instructions for submitting comments.
- *Mail:* Claudia Vergnani Vaupel, U.S. EPA Region 10, Office of Air, Waste, and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101
- *Hand Delivery:* US EPA Region 10 Mailroom, 9th Floor, 1200 Sixth Avenue, Seattle, Washington 98101. Attention: Claudia Vergnani Vaupel, Office of Air Waste, and Toxics (AWT–107). Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2010–0912. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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 during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Claudia Vergnani Vaupel at telephone number: (206) 553–6121, email address: *vaupel.claudia@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. Information is organized as follows:

Table of Contents

I. What is the purpose of this action?
II. What is the background for this proposed action?
III. What is the State's process to submit SIP revisions to EPA?
IV. What is EPA's analysis of Oregon's SIP revision?
V. Proposed Action
VI. Statutory and Executive Order Reviews

I. What is the purpose of this action?

EPA is proposing to approve revisions to Oregon Administrative Rules (OAR), Division 252 ''Transportation Conformity'' of the Oregon SIP that address the requirements of section 176 of the CAA and 40 CFR 51.390(b). By approving these revisions to OAR Division 252, EPA is making them part of the federally enforceable SIP for Oregon under the CAA.

II. What is the background for this proposed action?

Transportation conformity is required under section 176(c) of the Clean Air Act (CAA or Act) to ensure that federally supported highway, transit projects, and other activities are consistent with (''conform to'') the purpose of the SIP. Transportation conformity currently applies to areas that are designated nonattainment, and to areas that have been redesignated to attainment after 1990 (maintenance areas) with plans developed under section 175A of the Act, for the following transportation related criteria pollutants: Ozone, particulate matter ($PM_{2.5}$ and PM_{10}), carbon monoxide, and nitrogen dioxide.

Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant criteria pollutants, also known as national ambient air quality standards (NAAQS). The transportation conformity regulation is found in 40 CFR 93 and provisions related to transportation conformity SIPs are found in 40 CFR 51.390.

EPA promulgated the Federal transportation conformity criteria and procedures (''Transportation Conformity Rule'') on November 24, 1993 (58 FR 62188). On August 10, 2005, the ''Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users'' (SAFETEA-LU) was signed into law. SAFETEA-LU revised section 176(c) of the CAA transportation conformity provisions. One of the changes streamlines the requirements for conformity SIPs. Under SAFETEA-LU, states are required to address and tailor only three sections of the rules in their conformity SIPs: 40 CFR 93.105, 40 CFR 93.122(a)(4)(ii), and, 40 CFR 93.125(c). In general, states are no longer required to submit conformity SIP revisions that address the other sections of the conformity rule. These changes took effect on August 10, 2005, when SAFETEA-LU was signed into law. Oregon's SIP revision updates the State's transportation conformity provisions, OAR Division 252, to be consistent with the CAA as amended by SAFETEA-LU and EPA regulations (40 CFR Part 93 and 40 CFR 51.390). Oregon's SIP revision also adds a provision that requires approval by the air quality agency in order for an MPO to shorten the timeframe of a conformity determination (OAR–340–252–0070).

III. What is the State's process to submit SIP revisions to EPA?

Section 110(k) of the CAA addresses EPA's process to act on State submissions that would revise a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a State to us.

The submission includes evidence that the Oregon Department of Environmental Quality (ODEQ) provided adequate public notice of the revisions to OAR 340, Division 252 and held a public hearing on November 23, 2009. The Oregon Department of Transportation submitted comments on three aspects of the proposed rules and ODEQ provided a response on December 4, 2009. This SIP revision became State effective on February 18, 2010, and was submitted to EPA on October 6, 2010.

IV. What is EPA's analysis of Oregon's SIP revision?

EPA has evaluated this SIP submission and finds that the State has addressed the requirements of the Federal transportation conformity rule as described in 40 CFR Part 51, Subpart T and 40 CFR Part 93, Subpart A. The transportation conformity rule requires the states to develop their own processes and procedures for interagency consultation and resolution of conflicts meeting the criteria in 40 CFR 93.105. The SIP revision must include processes and procedures to be followed by the MPO, state DOT, and U.S. DOT in consulting with the state and local air quality agencies and EPA before making transportation conformity determinations. The transportation conformity SIP must also include processes and procedures for the state and local air quality agencies and EPA to coordinate the development of applicable SIPs with MPOs, state DOTs, and U.S. DOT, and requires written commitments to control measures and mitigation measures.

EPA has reviewed the submittal to assure consistency with the CAA as amended by SAFETEA-LU and EPA regulations (40 CFR Part 93 and 40 CFR 51.390) governing state procedures for transportation conformity and interagency consultation and has concluded that the submittal is approvable with the exception of an example in OAR–340–252–0070 for shortening the conformity timeframe. Details of our review are set forth in a technical support document (TSD), which has been included in the docket for this action. Specifically, in the TSD, we identify how the submitted procedures, as clarified by the State's August 31, 2011, supplementary letter, satisfy our requirements under 40 CFR 93.105 for interagency consultation with respect to the development of transportation plans and programs, SIPs, and conformity determinations, the resolution of conflicts, and the provision of adequate public consultation, and our requirements under 40 CFR 93.122(a)(4)(ii) and 93.125(c) for enforceability of control measures and mitigation measures.

V. Proposed Action

EPA is proposing approval of the SIP revision that was submitted by the State of Oregon on October 6, 2010. The SIP revision updates OAR, Division 252 ''Transportation Conformity'' of the Oregon SIP so as to meet the Federal transportation conformity consultation requirements as described in section 176 of the CAA 42 U.S.C. 7506 and in 40 CFR 51.390(b), 40 CFR 93.105(a) through (e), 40 CFR 93 122(a)(4)(ii), and 40 CFR 125(c).

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Dated: May 22, 2012.

Dennis J. McLerran,

Regional Administrator.

[FR Doc. 2012–13344 Filed 5–31–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0236; FRL–9670–9]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the South Coast Air Quality Management District portion of the California State Implementation Plan (SIP). This revision concerns particulate matter (PM) emissions from cement manufacturing facilities. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by July 2, 2012.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2012,0236, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947–4125, *vineyard.christine@epa.gov.*

SUPPLEMENTARY INFORMATION: *This proposal addresses the following local rule:* SCAQMD Rule 1156, Further Reductions of Particulate Emissions from Cement Manufacturing Facilities. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: April 24, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–13302 Filed 5–31–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2011–0112; 4500030114]

RIN 1018–AX69

Endangered and Threatened Wildlife and Plants; Revised Critical Habitat for the Northern Spotted Owl (Strix occidentalis caurina)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of supplementary documents.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a draft economic analysis of the proposed revised designation of critical habitat for the northern spotted owl (*Strix occidentalis caurina*) under the Endangered Species Act of 1973, as amended. Also, a draft environmental assessment of this proposed action will

be made available to the public on June 4, 2012.

DATES: *Written Comments:* The public comment period on the proposal to revise critical habitat for the northern spotted owl has been extended to July 6, 2012. Please note comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date. If you are submitting your comments by hard copy, please mail them by July 6, 2012, to ensure that we receive them in time to give them full consideration.

Public Information Meetings: As announced previously, we will hold public information meetings on the following dates and times:

- Redding, California, on June 4, 2012, from 3 p.m. to 5 p.m., and from 6 p.m. to 8 p.m.
- Tacoma, Washington, on June 12, 2012, from 3 p.m. to 5 p.m., and from 6 p.m. to 8 p.m.
- Portland, Oregon, on June 20, 2012, from 2 p.m. to 4 p.m. This meeting will precede the public hearing at the same location and on the same date.

In addition, we have added the following public information meetings:

- Roseburg, Oregon, on June 27, 2012, from 3 p.m. to 5 p.m., and from 6 p.m. to 8 p.m.

Public Hearing: We will hold a public hearing in Portland, Oregon, on Wednesday, June 20, 2012, from 6 p.m. to 8 p.m.

ADDRESSES: *Document availability:* You may obtain copies of the proposed revised rule, draft economic analysis, and draft environmental assessment at *http://www.regulations.gov* at Docket Number FWS–R1–ES–2011–0112, from the Oregon Fish and Wildlife Office's Web site (*http://www.fws.gov/oregonfwo/*—click on the link ''Spotted Owl Main Information Site''), or by contacting the Oregon Fish and Wildlife Office directly (see **FOR FURTHER INFORMATION CONTACT**).

Comment Submission: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Search for Docket No. FWS–R1–ES–2011–0112, which is the docket number for this rulemaking, and follow the directions for submitting a comment.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2011–0112; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

(3) *At the public information meetings or the public hearing:* Written comments will be accepted by Service personnel at any of the seven scheduled public meetings or the public hearing.

We will post all comments received on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information). We request that you send comments only by the methods described above.

Public Information Meetings: The seven public meetings will be held at the following locations:

- *California:* Redding Convention Center, 700 Auditorium Drive, Redding, California 96001; 530–229–0036.
- *Washington:* University of Washington, Tacoma Campus, 1900 Commerce St., Jane Russell Commons, Tacoma, Washington; 253–692–4416.
- *Portland, Oregon:* Oregon Convention Center, Room C–120, 777 NE Martin Luther King Blvd., Portland, Oregon; 503–235–7575.
- *Roseburg, Oregon:* Douglas County Central Library, Ford Community Room, 1409 NE Diamond Lake Blvd., Roseburg, Oregon; 541–440–4305.

Public Hearing: The public hearing will be held in Room C–120 at the Oregon Convention Center, 777 NE Martin Luther King Blvd., Portland, Oregon; 503–235–7575.

FOR FURTHER INFORMATION CONTACT: Paul Henson, State Supervisor, U.S. Fish and Wildlife Service, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266, by telephone (503–231–6179), or by facsimile (503–231–6195). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: On March 8, 2012, the U.S. Fish and Wildlife Service (Service) published in the **Federal Register** a proposal to revise the designated critical habitat for the northern spotted owl under the Endangered Species Act of 1973, as amended (Act). Consistent with the best scientific data available, the standards of the Act, our regulations, and agency practice, the Service initially identified, for public comment, approximately 13,962,449 acres (ac) (5,649,660 hectares (ha)) in 11 units and 63 subunits in California, Oregon, and Washington that meet the definition of critical habitat. In addition, however, the Act provides the Secretary with the discretion to exclude certain areas from the final designation after taking into consideration economic impacts, impacts on national security, and any other relevant impacts of specifying any particular area as critical habitat. The Service identified and is considering a number of specific alternatives in the proposed rulemaking based on potential exclusions from the final rule. First, of the total area identified, we propose to exclude from the final designation approximately 2,631,736 ac (1,065,026 ha) of National Park lands, Federal Wilderness Areas, and other Congressionally reserved natural areas, as well as 164,776 ac (66,682 ha) of State Park lands. Second, we propose to exclude from a final designation approximately 936,816 ac (379,116 ha) of State and private lands that have a Habitat Conservation Plan, Safe Harbor Agreement, conservation easement, or similar conservation protection. And third, we are considering exclusion of an additional 838,344 ac (339,266 ha) of other non-Federal lands from the final designation. These specific alternatives will be considered on an individual basis or in any combination thereof. In addition, the final designation may not be limited to these alternatives, but may also consider other exclusions as a result of continuing analysis of relevant considerations (both scientific and economic, as required by the Act) and the public comment process.

The comment period on the proposed rule had previously been extended to July 6, 2012, to allow all interested parties an opportunity to comment simultaneously on the proposed revised rule, the associated draft economic analysis, and draft environmental assessment. Comments previously submitted need not be resubmitted and will be fully considered in preparation of the final rule. We also previously announced our intent to hold a public hearing and several public information meetings on our proposed revised rule and associated documents; we announce two additional public information meetings here.

Presidential Memorandum

On February 28, 2012, the President issued a memorandum to the Secretary of the Interior regarding the proposed revised critical habitat for the northern spotted owl, specifically on minimizing regulatory burdens. In that memo, the President gave the following direction to the Secretary:

''In order to avoid unnecessary costs and burdens and to advance the principles of Executive Order 13563, consistent with the ESA, I hereby direct you to take the following actions:

(1) Publish, within 90 days of the date of this memorandum, a full analysis of the economic impacts of the proposed rule,

including job impacts, and make that analysis available for public comment;

(2) Consider excluding private lands and State lands from the final revised critical habitat, consistent with applicable law and science;

(3) Develop clear direction, as part of the final rule, for evaluating logging activity in areas of critical habitat, in accordance with the scientific principles of active forestry management and to the extent permitted by law;

(4) Carefully consider all public comments on the relevant science and economics, including those comments that suggest potential methods for minimizing regulatory burdens;

(5) Give careful consideration to providing the maximum exclusion from the final revised critical habitat, consistent with applicable law and science; and

(6) To the extent permitted by law, adopt the least burdensome means, including avoidance of unnecessary burdens on States, tribes, localities, and the private sector, of promoting compliance with the ESA, considering the range of innovative ecosystem management tools available to the Department and landowners.''

To comply with this directive, the Service has taken the following steps:

1. We conducted and completed, as per our normal practice, an economic analysis on the probable impacts of the proposed revised critical habitat, specifically in the areas of timber harvest and linear projects, and included a consideration of potential impacts to jobs. In this document, we announce the availability of this draft economic analysis for public review and comment. As discussed in more detail below, we found that, depending on the decisions made and future directions taken by Federal action agencies, the incremental impacts of the proposed critical habitat revision will likely be minimal, or may even have a positive impact, if ecological forestry prescriptions are applied. This analysis will be refined and revised, based on information we receive during our comment period, and a final economic analysis will be made available at the time of publication of the final rule.

2. In our proposed rule (77 FR 14062; March 8, 2012), we proposed several options that we are considering for our final designation, three of which address the potential exclusion of private and State lands from the final critical habitat determination. In making the final determination, we will consider the best available scientific and commercial information, including information we receive during our public comment period. This information will be used in our evaluation process, described in section 4(b)(2) of the Act, which will examine the benefits of inclusion and the benefits of exclusion of specific areas from the final critical habitat designation, so that the Secretary may make informed decisions regarding exclusions.

3. In our proposed rule, we provided a description of ecological forestry management actions that are compatible with both northern spotted owl recovery and timber harvest, as recommended in the Revised Recovery Plan for the Northern Spotted Owl (76 FR 38575; July 1, 2011), which, in some areas, may actually increase harvest relative to recent realized levels. While it is outside the purview of the Service to direct forestry management, we will consult with Federal action agencies and make recommendations on the best measures to provide protections for the owl and have minimal negative economic impacts.

4. It is the normal practice of the Service to solicit public review and comment on all rule-making actions, and, as noted above, we consistently follow the standard of using the best available scientific information in making critical habitat determinations. In our proposed rule (77 FR 14062; March 8, 2012), we requested specific information from all interested parties, and additionally have requested comment from expert peer reviewers. In this notice, we have added several additional specific questions for comment, including questions on the analytic framework and information in our draft economic analysis, and we will use all information received in our analysis and final determination.

5. In our March 8, 2012, proposed rule (77 FR 14062), we identified several options we are considering for the final designation which include the consideration of excluding private, State, and Congressionally Reserved lands within the proposed critical habitat. Additionally, we have solicited comments and information regarding any other areas that may be appropriate for exclusion. Again, the Secretary will consider all appropriate exclusions, and use the best available scientific and commercial information to inform his evaluation in making any exclusions to the final designation, as provided by section 4(b)(2) of the Act.

6. The Service appreciates, and is sensitive to, the potential for regulatory burden that may result from our designation of critical habitat for the northern spotted owl under the Act. Our analysis indicates that the proposed revision of critical habitat, as informed by the Revised Recovery Plan for the Northern Spotted Owl (76 FR 38575; July 1, 2011), is anticipated to have little incremental effects above and beyond the conservation measures already required as a result of its threatened status, and thus is expected to impose minimal additional regulatory burden. The Service appreciates, and relies on the many partners we have in conservation, including private landowners, Tribes, States, and local governments, and strongly desires to promote conservation partnerships to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people.

Public Comments

We will accept written comments and information during this extended comment period on our proposed revised designation of critical habitat for the northern spotted owl that was published in the **Federal Register** on March 8, 2012 (77 FR 14062), our draft economic analysis, and draft environmental assessment of the proposed revised designation. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

1. Specific information regarding:

a. The amount and distribution of northern spotted owl habitat;

b. What areas were occupied at the time of listing and contain features essential to the conservation of the species such that they should be included in the designation and why;

c. Whether these essential features may require special management considerations or protection and what special management considerations or protection may be needed in critical habitat areas we are proposing;

d. What areas not occupied at the time of listing are essential for the conservation of the species and why;

e. Whether we have identified any areas occupied at the time of listing, but that do not contain features essential to the conservation of the species, and that therefore should not be included in the designation; and

f. Whether we have identified any areas that may not have been occupied at the time of listing and that are not essential to the conservation of the species, such that they should not be included in the designation.

2. Land-use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

3. Our proposed approach to effects determinations for the purposes of conducting consultation under section 7(a)(2) of the Act, in particular the application of a 500-ac (200-ha) scale as a screen for a determination of not likely

to adversely affect, as described in the section ''Determinations of Adverse Effects and Application of the 'Adverse Modification' Standard'' of the proposed rule.

4. Assistance in the identification of any private lands that are not expressly identified as intended for inclusion within critical habitat and that may have inadvertently been included within the designation, due to mapping and modeling limitations, as described in the section ''Proposed Revised Critical Habitat Designation'' of the proposed rule.

5. Information on the potential impacts of climate change on the northern spotted owl and proposed critical habitat, and whether special management needs or protections may be needed to address this issue in the critical habitat areas we are proposing.

6. Any probable economic, national security, or other relevant impacts of designating any area as critical habitat, and in particular, any impacts on small entities, and the benefits of including or excluding areas that exhibit these impacts. We particularly request information and comments on what activities may occur and the effects to those activities in the proposed revised critical habitat areas. Such information could include:

a. The extent of possible activities, including temporal and spatial scale, relative to the critical habitat area within which they occur.

b. The impact of possible activities on the habitat's likelihood of serving its intended conservation function or purpose.

c. The consistency of possible activities with the recommendations of the Revised Recovery Plan for the Northern Spotted Owl or other landscape-level conservation plans.

7. The potential economic impacts of the designation on timber harvest on private lands included in the proposed designation, especially on those lands which do not have habitat conservation plans (HCPs), safe harbor agreements (SHAs), or other conservation plans which are currently active or under development.

8. Have we identified all potential impacts to private landowners within the proposed critical habitat?

9. The conservation benefits that would result from the additional protections to northern spotted owl habitat, above and beyond all measures currently in place, that would be afforded by the proposed revised critical habitat designation.

10. Whether the benefits of excluding the private and State lands with active conservation agreements (HCPs, SHAs, and other formal agreements) and congressionally reserved natural areas (e.g., wilderness areas, national scenic areas, national parks) that are proposed for exclusion outweigh the benefits of including them in critical habitat.

11. We are considering the possible exclusion of non-Federal lands, especially areas in private ownership, in particular, and whether the benefits of exclusion may outweigh the benefits of inclusion of those areas. However, we seek comment more broadly on whether the benefits of excluding any other particular area from critical habitat outweigh the benefits of including that area in critical habitat under section 4(b)(2) of the Act, after considering both the potential impacts and benefits of the proposed revised critical habitat designation. We, therefore, request specific information on:

a. The benefits of including any specific areas in the final designation and supporting rationale.

b. The benefits of excluding any specific areas from the final designation and supporting rationale.

c. Whether the designation will result in disproportionate economic impacts to specific areas that should be evaluated for possible exclusion from the final designation.

d. Whether any specific exclusions may result in the extinction of the species and why (see ''Exclusions'' section of the proposed rule).

e. For private lands in particular, we are interested in information regarding the potential benefits of including private lands in critical habitat versus the benefits of excluding such lands from critical habitat. This information does not need to include a detailed technical analysis of the potential effects of designated critical habitat on private property. In weighing the potential benefits of exclusion versus inclusion of private lands, the Service may consider whether existing partnership agreements provide for the management of spotted owl habitat. We may consider, for example, the status of conservation efforts, the effectiveness of any conservation agreements to conserve the species, and the likelihood of the conservation agreement's future implementation. There may be broad public benefits of encouraging collaborative efforts and encouraging local and private conservation efforts, and these broad benefits are important considerations in our evaluation.

12. Our process used for identifying those areas that meet the definition of critical habitat for the northern spotted owl, including the assumptions incorporated into the habitat modeling process, as described more fully in the section ''Criteria Used to Identify Critical Habitat'' of the proposed rule and also in our supporting documentation (Dunk *et al.* 2012).

13. Information on the extent to which the description of potential economic impacts in the draft economic analysis is complete and accurate, specifically:

a. Whether there are incremental costs of critical habitat designation (e.g., costs attributable solely to critical habitat designation) that have not been appropriately identified or considered in our economic analysis, including costs associated with future administrative costs or project modifications that may be required by Federal agencies related to section 7 consultation under the Act, and in particular, any impacts on small entities.

b. Whether the draft economic analysis identifies all State and local costs. If not, what other costs should be included.

c. Whether our approach in the draft economic analysis of evaluating three possible scenarios of potential impacts to timber harvest in younger forests in the Matrix land-use designation, based on the possible future decisions made by Federal land managers, covers all reasonable scenarios, and makes sound and reasonable projections in the three possible outcomes. These three scenarios are:

i. Timber harvest volume does not change; thinning that is currently taking place will most likely continue.

ii. Timber harvest volume may increase due to the application of ecological forestry practices in some areas of critical habitat.

iii. Timber harvest volume may be reduced due to voluntary agency restriction in actions within designated critical habitat.

d. Whether there are additional incremental economic impacts associated with linear projects, including pipelines, that have not been identified or correctly characterized in the economic analysis, including any potential project modifications or delay costs that may result from consultations associated with critical habitat on such projects.

e. Whether the economic analysis correctly assesses the effect on regional costs and jobs associated with timber harvest and other activities that may derive from the designation.

f. Are the estimates of job mulitpliers discussed in the draft economic analysis reasonable for the region and current? Please note that the scope of the analysis is limited to the incremental effects of critical habitat related to and

within the geographic area of the proposed designation for the northern spotted owl. The analysis does not consider potential changes in timber activities on lands outside the proposed critical habitat designation. As such, this analysis cannot evaluate the potential effects related to the timber industry as a whole.

14. Whether the draft economic analysis makes appropriate assumptions regarding current practices and any regulatory changes that will likely occur as a result of the designation of critical habitat.

15. Whether the draft economic analysis identifies all Federal, State, and local costs and benefits attributable to the proposed revised designation of critical habitat, and information on any costs that may have been inadvertently overlooked.

16. Whether the draft environmental assessment adequately presents the purpose of and need for the proposed action, the proposed action and alternatives, and the evaluation of the direct, indirect, and cumulative effects of the alternatives. Specifically:

a. Have we properly identified the range of issues relevant to the designation of critical habitat for the northern spotted owl?

b. Have we made reasonable conclusions regarding the certainty or uncertainty of the impacts of the proposed action and alternatives?

c. Have we identified a reasonable range of alternatives to meet the purpose and need of the action, including alternatives considered, but not fully evaluated?

d. Have we identified all reasonably foreseeable actions that could contribute to the cumulative effects of the action?

17. Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

18. Specific information on ways to improve the clarity of this rule as it pertains to completion of consultations under section 7 of the Endangered Species Act.

Our final determination concerning revised critical habitat for the northern spotted owl will take into consideration all written comments we receive during all comment periods, comments from peer reviewers, comments received during the public meetings, comments and public testimony received during the public hearing, and any additional information we receive in response to the draft economic analysis and draft environmental assessment. The comments will be included in the public record for this rulemaking, and we will fully consider them in the preparation of our final determination. On the basis of peer review and public comments, as well as any new information we may receive, we may, during the development of our final determination, find that areas within the proposed designation do not meet the definition of critical habitat, that some modifications to the described boundaries are appropriate, or that areas may or may not be appropriate for exclusion under section 4(b)(2) of the Act.

If you previously submitted comments or information on this proposed rule, please do not resubmit them. We have incorporated them into the public record for this rulemaking, and will fully consider them in the preparation of our final determination.

You may submit your written comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. Verbal testimony may also be presented during the public hearing (see **DATES** and **ADDRESSES** sections). We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you submit your comment via U.S. mail, you may request at the top of your document that we withhold personal information such as your street address, phone number, or email address from public review; however, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Information Meetings and Public Hearing

We are holding seven public information meetings and one public hearing on the dates listed in **DATES** at the locations listed in **ADDRESSES**. We are holding the public hearing to provide interested parties an opportunity to present verbal testimony (formal, oral comments) or written comments regarding the proposed critical habitat designation and the associated draft economic analysis and draft environmental assessment. A formal public hearing is not, however, an opportunity for dialogue with the Service or its contractors; it is only a forum for accepting formal verbal testimony. In contrast to the hearing, the public information meetings allow the public the opportunity to interact with Service staff and contractors, who will be available to provide information and address questions on the proposed rule and associated documents. We cannot accept verbal testimony at any of the public information meetings; verbal testimony can only be accepted at the public hearing. Anyone wishing to make an oral statement at the public hearing for the record is encouraged to provide a written copy of their statement to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Speakers can sign up at the hearing if they desire to make an oral statement. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us.

Persons with disabilities needing reasonable accommodations to participate in the public hearing or public meetings should contact Paul Henson, Field Supervisor, Oregon Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). Reasonable accommodation requests should be received at least 3 business days prior to the meeting or hearing to help ensure availability; at least 2 weeks prior notice is requested for American Sign Language or English as a second language interpreter needs.

Background

It is our intent to discuss only those topics directly relevant to the proposed revised designation of critical habitat for the northern spotted owl in this document. For more information on previous Federal actions concerning the northern spotted owl, refer to the proposed revised designation of critical habitat published in the **Federal Register** on March 8, 2012 (77 FR 14062), which is available online at *http://www.regulations.gov* (at Docket Number FWS–R1–ES–2011–0112) or from the Oregon Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the

conservation of the species. If the proposed rule is made final, section 7(a)(2) of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency unless it is exempted pursuant to the provisions of the Act. See 16 U.S.C. 1536(e)–(n) & (p). Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Consistent with the best scientific data available, the standards of the Act, and our regulations, we have initially identified, for public comment, approximately 13,962,449 acres (ac) (5,649,660 hectares (ha)) in 11 units and 63 subunits in California, Oregon, and Washington that meet the definition of critical habitat for the northern spotted owl. In addition, the Act provides the Secretary with the discretion to exclude certain areas from the final designation after taking into consideration economic impacts, impacts on national security, and any other relevant impacts of specifying any particular area as critical habitat.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat. In the case of the northern spotted owl, the benefits of critical habitat include public awareness of the presence of the northern spotted owl and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the northern spotted owl due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. We also consider the potential economic or social impacts that may result from the designation of critical habitat.

We have identified, and are considering, a number of specific alternatives in this proposed rulemaking based on potential exclusions from the final rule. First, of the total area identified, we propose to exclude from the final designation approximately 2,631,736 ac (1,065,026 ha) of National Park lands, Federal Wilderness Areas, and other congressionally reserved natural areas, as well as 164,776 ac (66,682 ha) of State Park lands. Second, we propose to exclude from a final designation approximately 936,816 ac (379,116 ha) of State and private lands that have a Habitat Conservation Plan, Safe Harbor Agreement, conservation easement, or similar conservation protection. And third, we are considering exclusion of an additional 838,344 ac (339,266 ha) of other non-Federal lands from the final designation.

These specific alternatives will be considered on an individual basis or in any combination thereof. In addition, the final designation may not be limited to these alternatives, but may also consider other exclusions as a result of continuing analysis of relevant considerations (scientific, economic, and other relevant factors, as required by the Act) and the public comment process. In particular, we solicit comments from the public on the physical and biological features currently identified in this proposal as being essential for the conservation of the species, whether all of the areas identified meet the definition of critical habitat, whether other areas would meet that definition, whether to make the specific exclusions we have proposed, and whether there are other areas that are appropriate for exclusion.

The final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period and information about the economic impact of designation. Accordingly, we have prepared a draft economic analysis and draft environmental assessment concerning the proposed critical habitat designation, which are available for review and comment (see **ADDRESSES**).

Existing Protections for the Northern Spotted Owl Absent Critical Habitat

A variety of Federal, State, and local protections currently apply to the northern spotted owl due to its status as a threatened species under the Act; these protections, and any costs associated with them, are not associated with the designation of critical habitat and are in place regardless of whether they are overlaid by critical habitat. Here we describe the existing protections for the northern spotted owl absent critical habitat.

Habitat Protections on Federal Lands

Approximately 86 percent (12,023,709 ac (4,864,823 ha)) of the proposed revised critical habitat designation is on Federal lands. These Federal lands already provide a variety of protections to the northern spotted owl and its habitat, regardless of the designation of critical habitat, including protections provided by the standards and guidelines of the Northwest Forest Plan (NWFP) and the protections provided by section 7 of the Act, as described more fully here. The NWFP adopted a series of reserves and management guidelines that were intended to protect spotted owls and their habitat. Currently, the guidelines for managing the large reserves of the NWFP are more restrictive than the recommendations for reserved lands in the Revised Recovery Plan for the Northern Spotted Owl. The protections to northern spotted owl habitat under the NWFP are in place regardless of the designation of critical habitat; critical habitat does not supersede or alter the standards and guidelines of the NWFP.

Since it was signed on April 13, 1994, the NWFP has generally guided the management of Federal forest lands within the range of the spotted owl (USDA and USDI 1994a, b). All U.S. Forest Service (Forest Service) and U.S. Bureau of Land Management (BLM) lands within the proposed revised designation of critical habitat for the northern spotted owl are managed under the NWFP. The NWFP was designed to protect large blocks of late-successional forest and provide habitat for species that depend on those forests, including the spotted owl, as well as to ''produce a predictable and sustainable level of timber sales and non-timber resources that will not degrade or destroy the environment'' (USDA and USDI 1994a). The NWFP includes land-use allocations that would provide for population clusters of spotted owls (i.e.,

demographic support) and maintain connectivity between population clusters. Certain land-use allocations in the NWFP contribute to supporting population clusters: Late-Successional Reserves (LSRs), Managed Late-Successional Areas, and Congressionally Reserved Areas. Riparian Reserves, Adaptive Management Areas and Administratively Withdrawn Areas can provide both demographic support and connectivity/dispersal between the larger blocks, but are not necessarily designed for that purpose. ''Matrix'' land-use allocation areas are designed to support timber production while also retaining biological legacy components important to old-growth obligate species that would persist into future managed timber stands.

The proposed revised designation of critical habitat for the northern spotted owl includes 2,631,736 ac (1,065,026 ha) of Congressionally-reserved wilderness areas and National Park lands. In these land allocations, there is generally little or no timber management beyond, potentially, removal of hazard trees or fuels reduction to protect structures and road maintenance, in addition to fire-management activities. Such areas thus protect habitat for the northern spotted owl absent the designation of critical habitat.

In addition, we estimate that the vast majority of the proposed revised critical habitat on Federal lands is currently occupied by the northern spotted owl; therefore, these lands are already subject to consultation under section 7(a)(2) of the Act. Section 7(a)(2) provides that Federal agencies must, in consultation with the Service, ensure that any action authorized, funded, or carried out by that Federal agency is not likely to jeopardize the continued existence of a listed species (this is referred to as the ''jeopardy standard''); for the northern spotted owl, impacts to its habitat are considered as part of this analysis. The jeopardy standard applies to the northern spotted owl on all Federal lands occupied by the species within the proposed revised critical habitat, which, as noted above, constitutes the majority of the proposed designation. In areas where spotted owls occur, Federal agencies, such as the Forest Service and Bureau of Land Management, are already consulting with the Service on the potential effects of their proposed actions under the jeopardy standard, regardless of whether these lands are currently designated as critical habitat. The only additional requirement for these Federal agencies, subsequent to the designation of critical habitat, is that these agencies must additionally ensure that their actions are not likely to result in the destruction or adverse modification of critical habitat.

Non-Federal Lands

The proposed revised designation of critical habitat includes 671,306 ac (271,558 ha) of State lands. Most of these State lands are either covered under a Habitat Conservation Plan (HCP) or are composed of State Parks or State Fish and Wildlife lands. Many of these lands have State regulations or guidelines in place that provide habitat protection for northern spotted owls, regardless of critical habitat. For example, in the State of Washington, timber harvest activities must comply with the State Forest Practices Act and the Washington State Environmental Policy Act, and the management of State trust lands is guided by the State Forest Resource Plan, which requires the Washington Department of Natural Resources (DNR) to analyze and potentially modify the impacts of its activities on watersheds, wildlife habitat, special ecological features, wetlands, and other natural resources to maintain healthy forests for future generations. In addition to these State policies for Washington, all forest lands managed by the DNR and considered in the proposed rule are covered by a Habitat Conservation Plan designed to provide habitat for a number of species, including the northern spotted owl.

In Oregon, timber harvests on State lands in Oregon are guided by the Forest Practices Act and Forest Practices Rules. In California, timber harvests are regulated by the California Forest Practice Rules, which contain specific provisions for the protection of the northern spotted owl. The protections provided by these State regulations and guidelines on State lands included in the proposed revised designation are in place regardless of the designation of critical habitat.

The proposed revised designation additionally identifies 1,267,704 ac (512,279 ha) of private lands as potential critical habitat for the northern spotted owl. Of these lands, approximately 873,621 ac (353,541ha) (69 percent) are already subject to existing or proposed HCPs or Safe Harbor Agreements (SHAs). An additional 89,400 ac (36,179 ha) (7 percent) are subject to other existing conservation protections, such as conservation easements. Thus, only 306,869 ac (124,185 ha) of private lands are without existing formal habitat protections for the northern spotted owl. However, these lands are still subject to applicable State regulations, such as State Forest Practice Rules. All of these protections are in place regardless of the designation of critical habitat.

Finally, State and private lands may also be subject to consultation under section 7(a)(2) of the Act if a ''Federal nexus'' exists, meaning the Federal government authorizes, funds, or carries out an activity on privately-held or State-owned property. For example, a Federal nexus may exist because a project involves Federal funding or requires a Federal permit, such as a Clean Water Act permit or an incidental take permit for another listed species that co-occurs with the northern spotted owl. In areas occupied by the northern spotted owl, the protections provided by consultation under the jeopardy standard for the northern spotted owl would apply regardless of critical habitat.

In addition to the protections afforded by the jeopardy standard of Section 7 of the Act, as discussed above, on all lands regardless of ownership the northern spotted owl also benefits from the protections of section 9 of the Act (which prohibits the ''take'' of listed wildlife species, defined as ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct'') and section 10 of the Act (under section 10(a)(1)(B), a landowner or local government may develop an HCP for a listed animal species to meet the conditions for issuance of an incidental take permit in connection with a land or water use activity or project). These protections are considered baseline protections attributable to the listed status of the species, and they are in place regardless of the designation of critical habitat.

Section 4(b)(2) of the Act specifies that the Secretary [of the Interior] shall designate critical habitat ''after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat.'' This consideration does not extend to revisiting the impacts associated with the listed status of the species. Thus, to understand the impacts attributable solely to the designation of critical habitat, it is first necessary to understand the baseline protections and costs that are already on the landscape, regardless of the critical habitat designation. The potential impacts of the proposed revised critical habitat for the northern spotted owl are, therefore, the economic costs and other relevant costs associated with the designation above and beyond those baseline protections and associated costs summarized above, and as described more fully in the draft

economic analysis of our proposed revision of critical habitat for the northern spotted owl (see below). Because the northern spotted owl is already subject to existing protections throughout most of its range, due to its threatened status under the Act, the costs attributable to the additional designation of critical habitat over and beyond existing costs are estimated to be relatively modest.

Draft Economic Analysis

The purpose of the draft economic analysis is to identify and analyze the potential economic impacts associated with the proposed critical habitat designation for the northern spotted owl. The economic impact of the proposed critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, considering protections already in place for the species (e.g., under the Federal listing and other Federal, State, and local regulations and guidelines, as described above in the section ''Existing Protections for the Northern Spotted Owl Absent Critical Habitat''). The baseline, therefore, represents the costs incurred regardless of whether critical habitat is designated. The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts are those not expected to occur absent the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs; these are the costs we may consider in the final designation of critical habitat when evaluating the benefits of excluding particular areas under section 4(b)(2) of the Act. The incremental costs of critical habitat do not include baseline costs that are associated with the listed status of the northern spotted owl, since these costs are in place regardless of critical habitat. For a further description of the methodology of the analysis, see the section ''Framework for the Analysis'' in the draft economic analysis.

The draft economic analysis provides estimated costs of the potential economic impacts of the proposed revised critical habitat designation for the northern spotted owl. It identifies potential incremental costs as a result of the proposed critical habitat designation; as described above, these are those costs attributed to critical habitat over and above those baseline costs attributed to listing. The draft economic analysis quantifies, to the extent possible, potential economic impacts of northern spotted owl conservation efforts associated with timber management and other activities, such as linear projects (e.g., pipelines), as well as potential impacts on jobs that may be attributable to the designation of critical habitat.

The draft economic analysis concludes that only a small fraction of the overall proposed revised designation could potentially result in more than minor, incremental administrative costs. Specifically, of the total acreage proposed for designation, the draft economic analysis concludes that changes in timber harvest practices attributable solely to the designation of critical habitat may occur on 1,389,787 ac (562,427 ha) of U.S. Forest Service and BLM land, or approximately 9 percent of the total area proposed. In addition, potential exists for the owners of 306,869 ac (124,185 ha) of private land to experience changes in harvest levels due to the designation of critical habitat (approximately 2 percent of total acres proposed). No changes in harvests are expected on State lands as a result of the designation.

There is uncertainty regarding the economic impacts due to the revised critical habitat for the northern spotted owl, especially regarding the extent to which critical habitat may lead to changes in forest management by land owners, in particular Federal land managers. In the past, it has generally been assumed that active forest management and conservation of critical habitat were incompatible land management goals. However, the Revised Recovery Plan, as reiterated by the proposed critical habitat rule, encourages Forest Service and BLM to consider some active forest management, both in dry and moist forests, as they carry out their management responsibilities.

For the past two decades, Federal land managers have worked collaboratively with the Service to consult on actions occurring within spotted owl critical habitat. However, the current proposed revision of critical habitat is larger than the final designations of 1992 and 2008, and, given the uncertainty regarding possible future actions by Federal land managers, we believed it expedient to evaluate in the draft economic analysis three scenarios of potential impact on Federal timber harvest. No one scenario is a precise prediction of what might happen in the future. Rather, these scenarios serve to bracket potential outcomes, and thereby inform the Secretary and the Service in making the best decision.

Scenario 1—Federal Land Managers Choose Prescriptions to Maintain Timber Harvest in Matrix Lands at Levels Similar to Recent Harvest

In this scenario, it is assumed that Federal land managers will continue to manage these Matrix forests in a manner similar to that done in recent years under the 1992 and 2008 critical habitat. Federal timber harvest has been planned under the Standards and Guidelines of the Northwest Forest Plan, with an emphasis on thinning and some regeneration harvest. However, much of the regeneration harvest has been contentious, and has sometimes been legally challenged, based on a variety of environmental and social concerns (Baker 2011), whether it is within critical habitat or not. Therefore, in this scenario, it is assumed that harvest will continue to be mostly from thinning, and will continue at recent levels. This scenario results in little change in timber harvest from recent realized levels of harvest. The total annualized impacts to timber harvest operations under this scenario could range from $185,000 to $316,000.

Scenario 2—Federal Land Managers Choose To Implement Ecological Forestry Prescriptions in Matrix Lands

In this scenario, Federal land managers implement ecological forestry prescriptions compatible with the considerations identified in the Revised Recovery Plan and the Standards and Guidelines of the Northwest Forest Plan. This approach may allow for some broader public support (i.e., reduced challenges) for variable retention harvest and thinning to meet long-term ecosystem management and restoration goals. Such an outcome should not result in harvest levels lower than Scenario 2 above, and may result in a net increase above recent levels of realized harvest. The recommendations of the Revised Recovery Plan may allow agencies to choose to thin in some areas of Matrix within critical habitat, where formerly they took a more cautious hands off approach, or in certain forest types within the Matrix, they may choose to conduct some variable retention harvest or other activities, as appropriate and consistent with the recommendations of the Revised Recovery Plan. The total annualized increased revenue to timber harvest operations under this scenario could range from $1.23 million to $3.07 million.

Scenario 3—Federal Land Managers Choose To Reduce Timber Harvest in Matrix Lands From Recent Levels

In this scenario, it is assumed that Federal land managers will choose to reduce their timber management by 20 percent from the realized harvest levels of the recent past. That is, they will conclude that some of their timber harvest activities would be incompatible with the goals of critical habitat, and they will decide to reduce or not plan timber harvest in some portion of the Matrix forests that are within proposed critical habitat. If the BLM or the Forest Service does reduce planned harvest due to critical habitat, it will likely be in those portions of the Matrix that they believe have greater value to spotted owl recovery and should not be subject to timber management. The total annualized impacts to timber harvest operations under this scenario could range from $2.46 million to $6.14 million, based on potential reductions in timber harvest on Federal lands.

Which of these scenarios, or combinations of these scenarios, comes to pass is largely dependent on the approaches undertaken by the land management agencies and the cooperative section 7 processes between the Forest Service or BLM and the Fish and Wildlife Service. Both the Forest Service and the BLM manage their timberlands under the direction of the NWFP, which includes provisions for management both within and outside of reserved areas. Inside reserves, we believe the guidance for development of late-successional forest characteristics is consistent with our recommendations for implementing ecological forestry methods to benefit the retention and development of spotted owl habitat. In the non-reserved, or the Matrix, portion of the landscape which these agencies manage, the NWFP provides minimum levels and sizes of standing trees that must remain post-harvest, depending on specific location within the range of the species. The NWFP does not, however, mandate that retaining only these minimum levels of retained trees is necessary. Indeed, in the past decade, the BLM and Forest Service have shifted their timber management emphasis in the Matrix from a regeneration harvest dominated program to one more focused on thinning prescriptions that leave more trees per acre than the minimums allowed under the NWFP. Since both the BLM and Forest Service have a proven track record of planning and implementing these thinning sales, we believe there will be a smooth transition to designing and implementing timber sales that are consistent with the ecological forestry recommendations in the Revised Recovery Plan and the proposed critical habitat designation and with the green-tree retention levels of the NWFP.

The draft analysis also considers and provides a means of estimating potential employment impacts associated with the potential change in timber harvest under the above three scenarios. Increases or decreases in timber harvests from Federal or private lands could result in positive or negative changes in jobs, respectively. As discussed in the draft economic analysis, a recent report published by the Pacific Northwest Research Station of the USFS states that in Oregon there were 9.4 direct jobs per MMBF of timber harvested in 2010, and 9.9 direct jobs per MMBF in Washington, for a weighted average of 9.61. Other studies focusing on specific geographic regions or earlier time periods estimate a broader range of jobs multipliers, suggesting the number of direct jobs affected in a specific geographic location could be smaller or larger, depending on the specific characteristics of the industry in that affected region (see discussion in draft economic analysis). Thus, increases or decreases in timber harvests from Federal or private lands could result in positive or negative changes in jobs, respectively. Scenario 1 does not forecast any reduction in harvest on Federal lands. Scenario 2 estimates an increase in timber harvest of 12 million board feet over the next 20 years on Federal lands. Scenario 3 estimates a reduction in timber harvest on Federal lands of 24 million board feet over the next 20 years. Please note that the scope of the analysis is limited to the incremental effects of critical habitat related to and within the geographic area of the proposed designation for the northern spotted owl. The analysis does not consider potential changes in timber activities on lands outside the proposed critical habitat designation. As such, this analysis cannot evaluate the potential effects related to the timber industry as a whole.

Finally, the draft economic analysis estimates potential impacts to linear projects may be from $10,800 to $19,400. Therefore, the total potential impacts under the three scenarios for both timber industry and linear projects is estimated at from $196,000 to $335,000 under scenario 1, a net increase in revenue of from $0.89 million to $2.87 million under scenario 2, and a net impact of from $2.65 million to $6.48 million under scenario 3.

These outcomes, or variations and combinations of them, are primarily dependent on future policy decisions by the Federal agencies. For example, the Secretaries of Interior and Agriculture have expressed their support for active forest management to restore forest health and provide jobs to rural communities. The Service has also expressed support in the Revised Recovery Plan and the proposed critical habitat rule for some levels of active forest management within critical habitat as consistent with long term forest conservation and restoration goals. Of course, specific proposed actions must also be considered through the normal section 7 consultation process.

As we stated earlier, we are soliciting data and comments from the public on the draft economic analysis and all aspects of the proposed rule. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, we may exclude an area from critical habitat if the Secretary determines that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

Draft Environmental Assessment

Outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act of 1969 (NEPA) 42 U.S.C. 4321 *et seq.,* in connection with designating critical habitat under the Act, for the reasons outlined in a notice published in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (in a challenge to the first rulemaking designating critical habitat for the northern spotted owl. *Douglas County* v. *Babbitt,* 48 F. 3d 1495 (9th Cir. 1995), *cert. denied* 416 U.S. 1042 (1996)). Nevertheless, the Service, as a matter of discretion and not as a legal requirement, is preparing a draft environmental assessment.

The draft environmental assessment will present the purpose of and need for critical habitat designation, the proposed action and alternatives, and an evaluation of the direct, indirect, and cumulative effects of the alternatives under the requirements of NEPA as implemented by the Council on Environmental Quality regulations (40 CFR 1500 *et seq.*) and according to the Department of the Interior's NEPA procedures.

The draft environmental assessment will assist the Service in deciding whether or not critical habitat will be

designated as proposed; if the proposed action requires refinement, or if another alternative is appropriate; or if further analyses are needed through preparation of an environmental impact statement. The draft environmental assessment will be available on June 4, 2012, at *http://www.regulations.gov* at Docket Number FWS–R1–ES–2011–0112, from the Oregon Fish and Wildlife Office's Web site (*http://www.fws.gov/oregonfwo/*—click on the link ''Spotted Owl Main Information Site''), or by contacting the Oregon Fish and Wildlife Office directly (see **FOR FURTHER INFORMATION CONTACT**). We are soliciting comments from the public on our draft environmental assessment.

Required Determinations—Amended

In our March 8, 2012, proposed rule (77 FR 14062), we indicated that we would defer our determination of compliance with several statutes and executive orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders became available in the draft economic analysis. We have now made use of the draft economic analysis data to make these determinations. In this document, we affirm the information in our proposed rule concerning Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulations and Regulatory Review), E.O. 12630 (Takings), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), E.O. 13211 (Energy, Supply, Distribution, and Use), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951). However, based on the draft economic analysis data, we are amending our required determination concerning the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

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

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and forestry and logging operations with fewer than 500 employees and annual business less than $7 million. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

Under the RFA, as amended, and following recent court decisions, Federal agencies are only required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself, and not the potential impacts to indirectly affected entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to insure that any action authorized, funded, or carried by the Agency is not likely to adversely modify critical habitat. Therefore, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Under these circumstances, it is our position that only Federal action agencies will be directly regulated by this designation. Therefore, because Federal agencies are not small entities, the Service may certify that the proposed critical habitat rule will not have a significant economic impact on a substantial number of small entities.

We acknowledge, however, that in some cases, third-party proponents of the action subject to permitting or funding may participate in a section 7 consultation, and thus may be indirectly affected. We believe it is good policy to assess these impacts if we have sufficient data before us to complete the necessary analysis, whether or not this analysis is strictly required by the RFA. While this regulation does not directly regulate these entities, in our draft economic analysis, we have conducted a brief evaluation of the potential number of third parties participating in consultations on an annual basis in order to ensure a more complete examination of the incremental effects of this proposed rule in the context of the RFA. As discussed earlier in this notice and in more detail in our March 8, 2012, proposed rule (77 FR 14062) and our draft economic analysis, we believe that the incremental effects of this proposed designation to be relatively small due to the extensive conservation measures already in place for the species, due to its being listed under the Act and because of measures provided under the NWFP and other conservation programs.

Importantly, the incremental impacts of the rule must be both significant and substantial to prevent certification of the rule under the RFA and to require the preparation of an initial regulatory flexibility analysis. If a substantial number of small entities are affected by the critical habitat designation, but the per-entity economic impact is not significant, the Service may certify. Likewise, if the per-entity economic impact is likely to be significant, but the number of affected entities is not substantial, the Service may also certify. Because per-entity impacts are currently uncertain, our evaluation focused on the number of small entities potentially affected.

In our draft economic analysis (DEA), we determined that there may be third-party participants to consultations involved with timber harvest and linear projects. In estimating the potential number of entities involved with consultations on timber harvest, we used the projection of 1,000 consultations over the 20-year time horizon of the DEA related to timber harvest management, providing an assumption of 50 consultations per year. We predict that many of these consultations will not involve third

parties, but data is lacking about third-party participation rates. For the sake of our evaluation, we assumed that third parties are involved with these consultations and that each party is a small entity, providing an annual estimate of 50 small entities that may be involved over the 20-year time horizon of the study. This is likely an over estimate of the number of third parties involved with timber management consultations and therefore an over estimate of the number of small entities involved as well. The DEA further explored the projection of small businesses in timber-related sectors in the geographic areas overlapping the critical habitat designation which differed depending on the specific data sets used, either 7,140 entities or 2,616 entities. Using our conservative estimate of 50 small entities involved annually, the proportion of entities potentially impacted by the designation would be 0.70 percent and 1.9 percent, respectively, over the 20-year time horizon of the study. Based on these calculations, we have concluded that these proportions do not represent a substantial number of small business entities potentially affected in the timber management sector. Please refer to Appendix A of the DEA for further details of our evaluation.

Next we explored the potential impact to third parties that may be involved with consultations related to linear projects. On the basis of similar conservative assumptions explained in the DEA, we concluded that there may be a total of 11 projects in a given year that may involve third parties. If we similarly assume that each of these parties represent small entities, then we estimate that 11 small entities in a given year could be impacted by the designation. However, based on an evaluation of the relative proportion these 11 entities may represent of the specific sector, we believe that they are unlikely to represent a substantial number. Further, the projected impacts to third parties resulting from the consultations on linear projects are anticipated to be administrative in nature. Thus, based on our conservative estimates in identifying third parties in this sector that potentially may be impacted and the projected proportion of the number of entities and types of impacts, we conclude that the designation would not result in a significant impact to a substantial number of small business entities in this sector. Please refer to Appendix A of the DEA for further details of our evaluation.

In conclusion, we believe that, based on our interpretation of directly regulated entities under RFA and relevant case law, this designation of critical habitat will only directly regulate Federal agencies which are not by definition small business entities. However, though not necessarily required by the RFA, we chose to consider and evaluate the potential effects to third parties that may be involved with consultations with Federal action agencies related to the designation of critical habitat. As discussed above, we determined that there may be entities that would most likely be involved with consultations in two sectors—timber management and linear projects. However, based on our conservative evaluation of the number of entities in these sectors potentially impacted, the proportion of the affected entities to those representing the sector in the study area, and the types of impacts, we certify that, if promulgated, the proposed revised critical habitat designation would not have a significant economic impact on a substantial number of small business entities. As such, an initial regulatory flexibility analysis is not required.

Authors

The primary authors of this notice are the staff members of the Oregon Fish and Wildlife Office, Pacific Region, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 1, 2012.

Rachel Jacobson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2012–13305 Filed 5–29–12; 4:15 pm]

BILLING CODE 4310–55–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0408; FRL–9680–1]

Approval of Air Quality Implementation Plans; California; San Joaquin Valley Unified Air Pollution Control District; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of a permitting rule submitted for the San Joaquin Valley Unified Air Pollution Control District (District) portion of the California State Implementation Plan (SIP). The State is required under Part C of title I of the Clean Air Act (CAA or Act) to adopt and implement a SIP-approved Prevention of Significant Deterioration (PSD) permit program. This SIP revision proposes to incorporate District Rule 2410—Prevention of Significant Deterioration—into the SIP to establish a PSD permit program for pre-construction review of certain new and modified major stationary sources in attainment or unclassifiable areas. The District is currently attainment or unclassifiable for the PM_{10}, NO_2, CO, and lead National Ambient Air Quality Standards (NAAQS). We are soliciting public comments on this proposal and plan to follow with a final action after consideration of comments received.

DATES: Any comments must be submitted no later than July 2, 2012.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2012–0408, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: R9airpermits@epa.gov.*

3. *Mail or deliver:* Gerardo Rios (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and

some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Lisa Beckham, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 972–3811, *beckham.lisa@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule on which we are proposing action with the date it was adopted by the local agency and submitted to EPA by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD	2410	Prevention of Significant Deterioration	6/16/2011	8/23/2011

CAA section 110(k)(1)(B) requires EPA to determine whether a SIP submittal is complete within 60 days of receipt. This section also provides that any SIP submittal that we have not affirmatively determined to be complete or incomplete will become complete by operation of law six months after the day of submittal. The August 23, 2011 submittal of the District's PSD regulation became complete by operation of law on February 23, 2012.

B. Are there other versions of this rule?

There are no previous versions of Rule 2410 in the California SIP. The District originally adopted Rule 2410 on June 16, 2011 and it has not been revised since that date.

C. What is the purpose of the submitted rule?

Section 110(a) of the CAA requires states to adopt and submit regulations for the implementation, maintenance and enforcement of the primary and secondary NAAQS. Specifically, section 110(a)(2)(J) requires the state's plan to meet the applicable requirements of section 165 relating to a pre-construction permit program for the prevention of significant deterioration of air quality and visibility protection. The purpose of District Rule 2410—Prevention of Significant Deterioration, is to implement a pre-construction PSD permit program as required by section 165 of the CAA for certain new and modified major stationary sources located in attainment areas. Because the State does not currently have a SIP-approved PSD program within the District, EPA is currently the PSD permitting authority in the District. Inclusion of this rule into the SIP will transfer PSD permitting authority from EPA to the District. EPA would then assume the role of overseeing the District's PSD permitting program, as intended by the CAA.

II. EPA's Evaluation and Action

A. How is EPA evaluating this rule?

The relevant statutory provisions for our review of the submitted rules include CAA sections 110(a), 110(l), and 165 and Part 51, section 166 of title 40 of the Code of Federal Regulations (40 CFR 51.166). Section 110(a) requires, among other things, that SIP rules be enforceable, while section 110(l) precludes EPA approval of SIP revisions that would interfere with any applicable requirements concerning attainment and reasonable further progress. Section 165 of the CAA requires states to adopt a pre-construction permitting program for certain new and modified major stationary sources located in attainment or unclassifiable areas. 40 CFR 51.166 establishes the specific requirements for SIP-approved PSD permit programs that must be met to satisfy the requirements of section 165 of the CAA.

B. Does the rule meet the evaluation criteria?

With some exclusions and revisions, Rule 2410 incorporates by reference EPA's PSD permit program at 40 CFR 52.21, as of June 16, 2011. We generally consider the EPA's PSD permit program to be consistent with the criteria in 40 CFR 51.166. However, we conducted a review of Rule 2410 to ensure that all requirements of 40 CFR 51.166 are met. Our evaluation is available as an attachment to the technical support document (TSD) for this rulemaking. We also reviewed the revisions the District made to the provisions of 40 CFR 52.21 that were incorporated by reference into Rule 2410, such as revising certain terms and definitions to reflect that the District, rather than the EPA, will be the PSD permitting authority. Rule 2410 also relies on the existing SIP-approved public notice requirements contained in Rule 2201—New Source Review. In addition, we reviewed revisions made to 40 CFR 51.166 and 52.21 after the District adopted Rule 2410. Please see the TSD for additional information. Based on our review of Rule 2410 and confirmation from the District, in a letter dated May 18, 2012, regarding its implementation procedures and commitment to revise Rule 2410 in the future for clarity, we are proposing to find the SIP revision acceptable under CAA sections 110(a), 110(l) and 165 and 40 CFR 51.166.

EPA's TSD for this rulemaking has more information about this rule, including our evaluation and recommendation to approve it into the SIP.

C. Transfer of Existing EPA-Issued PSD Permits

The District has also requested approval to exercise its authority to administer the PSD program with respect to those sources located in the District that have existing PSD permits issued by EPA. This would include authority to conduct general administration of these existing permits, authority to process and issue any and all subsequent PSD permit actions relating to such permits (e.g., modifications, amendments, or revisions of any nature), and authority to enforce such permits. Pursuant to the criteria under section 110(a)(2)(E)(i) of the CAA, we have determined that the District has the authority, personnel, and funding to implement the PSD program within the District for existing EPA-issued permits. Concurrent with EPA's approval of the District's PSD program into the SIP, the EPA-issued permits would be transferred to the

District. A list of these EPA-issued permits is provided as an attachment to the TSD. EPA intends to provide a copy of each permit to the District prior to the effective date of the final SIP approval.

In order to promote an orderly transition of the PSD program from the EPA to the District, the efficient use of the District's and EPA's resources, and certainty for the regulated community and the public, EPA proposes to retain PSD permit implementation authority for those specific sources within the District that have submitted PSD permit applications to EPA and for which EPA has issued a proposed permit decision, but for which final agency action and/or the exhaustion of all administrative and judicial appeals processes (including any associated remand actions) have been not yet been concluded or completed upon the effective date of EPA's final action on Rule 2410. The District would assume full PSD responsibility for the administration and implementation of such PSD permits immediately upon notification from EPA that all administrative and judicial appeals processes and any associated remand actions have been completed or concluded for any such permit application.

D. Public Comment and Proposed Action

Because EPA believes the submitted rule fulfills all relevant requirements, we are proposing to fully approve it as a revision to the SIP pursuant to section 110(k)(3) of the Act. Specifically, we are proposing to approve District Rule 2410—Prevention of Significant Deterioration, as adopted by the District on June 16, 2011 and submitted by CARB on August 23, 2011.

We will accept comments from the public on this proposal until July 2, 2012.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Dated: May 22, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–13338 Filed 5–31–12; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 77, No. 106
Friday, June 1, 2012

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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: Friday, June 15, 2012.

Registration: 8 a.m. to 9 a.m.

Time: 9 a.m. to 12 p.m.

Location: Georgetown University, Healy Hall Lawn (site of ACVFA meeting tent), 37th and O Streets NW., Washington, DC 20057.

Agenda

USAID Administrator Rajiv Shah will make opening remarks, followed by panel discussions among ACVFA members and USAID leadership, and open Q&A. A draft agenda and additional information will be forthcoming on the ACVFA Web site at *http://www.usaid.gov/about_usaid/acvfa.*

Stakeholders

The meeting is free and open to the public. Persons wishing to attend should register online at *http://transition.usaid.gov/about_usaid/acvfa/acvfaregistration.html.* For additional information please contact Paloma Adams-Allen at (202) 712–4378 or *PAdamsA@usaid.gov.*

Dated: May 29, 2012.

Paloma Adams-Allen,

ACVFA Executive Director (A).

[FR Doc. 2012–13351 Filed 5–31–12; 8:45 am]

BILLING CODE P

BROADCASTING BOARD OF GOVERNORS

Government in the Sunshine Act Meeting Notice

DATE AND TIME: Thursday, June 7, 2012, 10:00 a.m. EDT.

PLACE: Radio Free Europe/Radio Liberty, Vinohradska 159A, 100 00 Prague 10, Czech Republic.

SUBJECT: Notice of Meeting of the Broadcasting Board of Governors.

SUMMARY: The Broadcasting Board of Governors (BBG) will be meeting at the time and location listed above. At the meeting, the BBG will consider a resolution to honor S. Enders Wimbush for his service on the Board, and a resolution regarding limiting spending on travel and conferences. The BBG will recognize the anniversaries of Agency language services, receive a budget update, and receive reports from the International Broadcasting Bureau Director, the Communications and External Affairs Director, the VOA Director, the Office of Cuba Broadcasting Director, and the Presidents of Radio Free Europe/Radio Liberty (RFE/RL), Radio Free Asia, and the Middle East Broadcasting Networks.

The public may attend this meeting in person at RFE/RL headquarters in Prague as seating capacity allows. Member of the public seeking to attend the meeting in person must register at *http://bbgboardmeetingjune2012.eventbrite.com* by 10 a.m. (EDT) on June 6. For more information, please contact BBG Public Affairs at (202) 203–4400 or by email at *pubaff@bbg.gov.* This meeting will also be available for public observation via streamed Webcast, both live and on-demand, on the BBG's public Web site at *www.bbg.gov.*

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Paul Kollmer-Dorsey at (202) 203–4545.

Paul Kollmer-Dorsey,

Deputy General Counsel.

[FR Doc. 2012–13472 Filed 5–30–12; 4:15 pm]

BILLING CODE 8610–01–P

COMMISSION ON CIVIL RIGHTS[REMOVED PRIVATE FIELD]

Agenda and Notice of Public Meeting of the Nevada Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Nevada Advisory Committee (Committee) to the Commission will convene on Wednesday, June 27, 2012, at 1:30 p.m. and adjourn at approximately 3:00 p.m. at the Department of Employment, Training and Rehabilitation, 2800 East St. Louis Ave., Las Vegas, Nevada 89104. The purpose of the meeting is for the Committee to plan future activities.

Members of the public are entitled to submit written comments. The comments must be received in the Western Regional Office by July 27, 2012. The mailing address is Western Regional Office, U.S. Commission on Civil Rights, 300 N. Los Angeles St., Suite 2010, Los Angeles, CA 90032. Persons wishing to email their comments may do so to *atrevino@usccr.gov.* Persons that desire additional information should contact Angelica Trevino, Office Manager, Western Regional Office, at (213) 894–3437.

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Western Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Western Regional Office at the above email or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, May 25, 2012.

Peter Minarik,

Acting Chief, Regional Programs Coordination Unit

[FR Doc. 2012–13271 Filed 5–31–12; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the

Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Application for Commercial Fisheries Authorization under Section 118 of the Marine Mammal Protection Act.

OMB Control Number: 0648–0293.

Form Number(s): NA.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 800.

Average Hours per Response: Initial registration, 15 minutes; renewal, 9 minutes.

Burden Hours: 180.

Needs and Uses: This request is for extension of a current information collection.

The Marine Mammal Protection Act requires any commercial fisher operating in Category I and II fisheries to register for a certificate of authorization that will allow the fisher to take marine mammals incidental to commercial fishing operations. Category I and II fisheries are those identified by NOAA as having either frequent or occasional takings of marine mammals.

Some states have integrated the NMFS registration process into the existing state fishery registration process and fishers in those fisheries do not need to file a separate federal registration. If applicable, vessel owners will be notified of this simplified registration process when they apply for their state of Federal permit or license.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: May 25, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–13270 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: List of Gear by Fisheries and Fishery Management Council.

OMB Control Number: 0648–0436.

Form Number(s): None.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 6.

Average Hours per Response: 1 hour, 30 minutes.

Burden Hours: 9.

Needs and Uses: This request is for extension of a currently approved information collection.

Under the provisions of the Magnuson-Stevens Fishery and Conservation and Management Act (Magnuson-Stevens Act) [16 U.S.C. 1801 *et seq.*], as amended by the Sustainable Fisheries Act [Pub. L. 104–297], the Secretary of Commerce (Secretary) is required to publish a list of all fisheries under authority of each Regional Fishery Management Council (Council) and all such fishing gear used in such fisheries (see section 305(a) of the Magnuson-Stevens Act). The list has been published and appears in 50 CFR 600.725(v). Any person wishing to use gear not on the list, or engage in a fishery not on the list, must provide the appropriate Council or the Secretary, in the case of Atlantic highly migratory species with 90 days of advance notice. If the Secretary takes no action to prohibit such a fishery or use of such a gear, the person may proceed.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov*.

Dated: May 29, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–13323 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1832]

Grant of Authority for Subzone Status; Mitsubishi Power Systems Americas, Inc. (Wind Turbine Nacelles and Generating Sets) Fort Smith, AR

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Arkansas Economic Development Commission, grantee of Foreign-Trade Zone 14, has made application to the Board for authority to establish a special-purpose subzone at the wind turbine nacelle and generating set manufacturing facility of Mitsubishi Power Systems Americas, Inc., located in Fort Smith, Arkansas (FTZ Docket 55–2011, filed 8–19–2011);

Whereas, notice inviting public comment has been given in the **Federal Register** (76 FR 53403–53404, 8–26–2011) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status for activity related to the manufacturing of wind turbine nacelles and generating sets at the Mitsubishi Power Systems Americas, Inc., facility located in Fort Smith, Arkansas (Subzone 14H), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Signed at Washington, DC, this 24th day of May 2012.

Paul Piquado,

Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2012–13361 Filed 5–31–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–838]

Certain Frozen Warmwater Shrimp From Brazil: Notice of Rescission of Antidumping Duty Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Rebecca Trainor, 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) 482–4929 or (202) 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2012, the Department of Commerce (the Department) published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on certain frozen warmwater shrimp from Brazil for the period of review (POR) of February 1, 2011, through January 31, 2012.[1] The Department received a timely request from the Ad Hoc Shrimp Trade Action Committee (Domestic Producers) in accordance with 19 CFR 351.213(b), for an administrative review of the antidumping duty order on certain frozen warmwater shrimp from Brazil. On April 2, 2012, the Department published a notice of initiation of an administrative review of the antidumping duty order on certain frozen warmwater shrimp from Brazil with respect to three companies.[2]

The Department stated in its initiation of this review that it intended to rely on U.S. Customs and Border Protection (CBP) data to select respondents. *See Initiation Notice.* However, our review of the CBP database, with respect to the companies for which reviews were requested, showed no entries of certain frozen warmwater shrimp originating in Brazil, subject to antidumping duties and countervailing duties (AD/CVD), during the POR. *See* April 4, 2012, Memorandum to the File entitled ''Release of POR Entry Data from CBP''. We released the results of our CBP data query to the Domestic Producers, the only interested party to this segment of the proceeding, and invited them to comment on the CBP data and respondent selection. We received no comments on the CBP data or respondent selection.

On April 17, 2012, we sent a ''No Shipments Inquiry'' to CBP to confirm that there were no shipments or entries of frozen warmwater shrimp from Brazil during the POR from the companies subject to review. We received no information from CBP to contradict the results of our data query.

On May 8, 2012, we stated that, because information from CBP indicates that there were no entries of shrimp from Brazil during the POR from the companies covered by this review, we intend to rescind this review. *See* May 8, 2012, Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, entitled ''Intent to Rescind Administrative Review.'' We invited parties to comment on our intent to rescind this administrative review. We did not receive comments from any interested party.

On May 18, 2012, we clarified for the record that the results of our CBP data query showed no entries of certain frozen warmwater shrimp from Brazil, subject to AD/CVD duties, during the POR from any company. *See* May 18, 2012, Memo to The File entitled ''Data Query Request for Respondent Selection.''

Rescission of Review

Section 351.213(d)(3) of the Department's regulations stipulates that the Secretary may rescind an administrative review if there were no entries, exports, or sales of the subject merchandise during the POR. As there were no entries, exports, or sales of the subject merchandise during the POR, we are rescinding this review of the antidumping duty order on certain frozen warmwater shrimp from Brazil pursuant to 19 CFR 351.213(d)(3). We intend to issue assessment instructions to CBP 15 days after the date of publication of this notice of rescission of administrative review.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 23, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–13367 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–901]

Certain Lined Paper Products From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Rescission, In Part

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

SUMMARY: The Department of Commerce (''the Department'') is conducting the fifth administrative review of the antidumping duty order on certain lined paper products (''CLPP'') from the People's Republic of China (''PRC'') with respect to two producers/exporters for the period September 1, 2010, through August 31, 2011. 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 antidumping duties on all appropriate entries of subject merchandise during the period of review.

Interested parties are invited to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act'').

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Cindy Lai Robinson or Joy Zhang, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 77 FR 4990 (February 1, 2012).

[2] *See Certain Frozen Warmwater Shrimp from Brazil, India and Thailand: Notice of Initiation of Antidumping Duty Administrative Reviews,* 77 FR 19612 (April 2, 2012) (*Initiation Notice*).

Avenue NW., Washington, DC 20230; telephone: (202) 482–3797 or (202) 482–1168, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 2, 2011, the Department published in the **Federal Register** the notice of the ''Opportunity to Request Administrative Review'' of the antidumping duty order on CLPP from the PRC, for the period September 1, 2010, through August 31, 2011.[1] On September 30, 2011, we received a request from petitioner [2] to review the following three companies: Shanghai Lian Li Paper Products Co., Ltd. (''Lian Li''); Hwa Fuh Plastics Co., Ltd./Li Teng Plastics (Shenzhen) Co., Ltd. (''Hwa Fuh/Li Teng'') [3]; and Leo's Quality Products Co., Ltd./Denmax Plastic Stationery Factory (''Leo/Denmax''). On October 31, 2011, we published the notice of initiation of this antidumping duty administrative review with respect to Lian Li and Leo/Denmax.[4]

Respondents and Questionnaires

On November 8, 2011, we issued a questionnaire to Lian Li and Leo/Denmax by electronic mail. Counsel to Lian Li acknowledged receipt of the questionnaire via email dated November 8, 2011.[5] Receiving no acknowledgement of receipt of the emailed questionnaire from Leo/Denmax, we sent a hard copy of the questionnaire to Leo/Denmax through UPS by registered mail on November 17, 2011.[6] On December 30, 2011, Lian Li submitted a letter, certifying that they did not export the subject merchandise to the United States during the period of review. Leo/Denmax did not respond to the Department's antidumping questionnaire.

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review,* 76 FR 54735 (September 2, 2011).

[2] The petitioner is the Association of American School Paper Suppliers (''AASPS'').

[3] The Department was unable to locate Hwa Fuh/Li Teng in prior segments and the petitioner did not provide any new information as to Hwa Fuh/Li Teng's location in its review request letter. Accordingly, pursuant to 19 CFR 351.303(f)(3)(ii), the Department did not accept a request for an administrative review of Hwa Fuh/Li Teng.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 76 FR 67133 (October 31, 2011) (''*Initiation Notice*'').

[5] *See* Memorandum to File from Joy Zhang, analyst, through James Terpstra, Program Manager, Office 3, AD/CVD Operations, dated May 10, 2012.

[6] *See* ''Proof of Delivery of Antidumping Questionnaire to Leo's Quality Products Co., Ltd,'' memorandum to file from Joy Zhang, analyst, through James Terpstra, Program Manager, Office 3, AD/CVD Operations, dated January 4, 2012.

Period of Review

The period of review (''POR'') is September 1, 2010, through August 31, 2011.

Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8¾ inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or ''tear-out'' size), and are measured as they appear in the product (*i.e.,* stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- Unlined copy machine paper;
- Writing pads with a backing (including but not limited to products commonly known as ''tablets,'' ''note pads,'' ''legal pads,'' and ''quadrille pads''), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- Three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- Index cards;
- Printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- Newspapers;
- Pictures and photographs;
- Desk and wall calendars and organizers (including but not limited to such products generally known as ''office planners,'' ''time books,'' and ''appointment books'');
- Telephone logs;
- Address books;
- Columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- Lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- Lined continuous computer paper;
- Boxed or packaged writing stationary (including but not limited to products commonly known as ''fine business paper,'' ''parchment paper'', and ''letterhead''), whether or not containing a lined header or decorative lines; and
- Stenographic pads (''steno pads''), Gregg ruled (''Gregg ruling'' consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches.

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended

polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

• FiveStar® Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1'' wide elastic fabric band. This band is located 2-3⁄8'' from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar® Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

• FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

In response to a request from petitioners to conduct a changed circumstances review, the Department revoked the order, in part, with respect to FiveStar® Advance™ notebooks and notebook organizers without PVC coatings. *See Certain Lined Paper Products from People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part,* 76 FR 60803 (September 30, 2011).

Merchandise subject to this order is typically imported under headings 4810.22.5044, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, 4820.10.4000, 4820.30.0040, 4811.90.9035, 4811.90.9080, and 4811.90.9050 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

Preliminary Partial Rescission

On December 30, 2011, Lian Li submitted a letter, certifying that they did not export the subject merchandise to the United States during the POR. Lian Li requested that the Department rescind the administrative review with respect to Lian Li. On February 16, 2012, we conducted an internal query of the CBP entry data with respect to Lian Li. The CBP entry data confirms Lian Li's claims of no shipments. Additionally, we sent an inquiry to CBP asking whether any CBP office had any information contrary to the no shipments claim and requesting CBP alert the Department of any such information within ten days of receiving our inquiry. CBP received our inquiry on January 19, 2012. We have not received a response from CBP with regard to our inquiry which indicates that CBP did not have information that was contrary to the claim of Lian Li. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are preliminarily rescinding this review of the antidumping duty order on lined paper from the PRC, for the period September 1, 2010, through August 31, 2011.[7] If the rescission is confirmed in our final results, the cash deposit rate for the Lian Li will continue to be the rate established in the most recently completed segment of this proceeding.

Separate Rate

Pursuant to section 771(18)(C) of the Act, a designation of a country as an NME remains in effect until it is revoked by the Department. 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.[8] In the *Initiation Notice,* the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.[9] It is the Department's 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

[7] *See, e.g., Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results and Partial Rescission of the Third Antidumping Duty Administrative Review,* 72 FR 53527, 53530 (September 19, 2007), unchanged in *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission,* 73 FR 15479, 15480 (March 24, 2008); *see also Cetain Activated Carbon From the People's Republic of China: Preliminary Results of the Fourth Antidumping Duty Administrative Review, and Intent to Rescind in Part,* 77 FR 26496 (May 4, 2012).

[8] *See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China,* 71 FR 53079, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China,* 71 FR 29303, 29307 (May 22, 2006).

[9] *See Initiation Notice.*

established in *Sparklers,*[10] as amplified by *Silicon Carbide*.[11] However, if the Department determines that a company is wholly foreign-owned or located in a market economy (''ME''), then a separate rate analysis is not necessary to determine whether it is independent from government control.[12]

The PRC–Wide Entity and Use of Adverse Facts Available (''AFA'')

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply ''facts otherwise available'' if, *inter alia,* necessary information is not on the record or an interested party or any other person: (A) Withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot serve as a reliable basis, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

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 information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' [13] ''Corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value.[14] To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA explains, however, that the Department need not prove that the selected facts available are the best alternative information.[15]

Leo/Denmax did not respond to the Department's questionnaire. Because we have determined that Leo/Denmax is not entitled to a separate rate and is now part of the PRC-wide entity, the PRC-wide entity is now under review. The PRC-wide entity did not respond to our requests for information. Because the PRC-wide entity did not respond to our requests for information, we find it necessary under section 776(a)(2) of the Act to use facts available as the basis for these preliminary results. Because the PRC-wide entity provided no information, we determine that sections 782(d) and (e) of the Act are not relevant to our analysis. We further find that the PRC-wide entity failed to respond to the Department's requests for information and, therefore, did not cooperate to the best of its ability. Therefore, because the PRC-wide entity did not cooperate to the best of its ability in the proceeding, the Department finds it necessary to use an adverse inference in making its determination, pursuant to section 776(b) of the Act.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any other information placed on the record. Because of the PRC-wide entity's failure to cooperate in this administrative review, we have preliminarily assigned the PRC-wide entity an AFA rate of 258.21 percent, which is the PRC-wide rate determined in the investigation of CLPP from the PRC, which is the highest rate on the record of all segments of this proceeding.[16] As explained below, this rate has been corroborated.

Corroboration of Facts Available

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall to the extent practicable, corroborate that information from independent sources that are reasonably at the Department's disposal. Secondary information is described in the SAA as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' [17] The SAA explains that ''corroborate'' means to determine that the information used has probative value. The Department has determined that to have probative value, information must be reliable and relevant.[18] The SAA also explains that

[10] *See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991) (''*Sparklers''*)

[11] *See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585 (May 2, 1994). (''*Silicon Carbide''*).

[12] *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China,* 72 FR 52355, 52356 (September 13, 2007).

[13] *See* The Statement of Administrative Action, reprinted in H.R. Doc. No. 103–216, at 870 (1994) (''SAA'') at 870.

[14] *See id.*

[15] *See id.* at 869.

[16] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia,* 71 FR 56949 (September 28, 2006) (''CLPP PRC Investigation'') and Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079 (September 8, 2006), and accompanying Issues and Decision Memorandum (''LTFV Iss. & Dec. Memo'').

[17] *See* SAA at 870.

[18] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan;*

Continued

independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.[19]

As stated above, we are applying as AFA the highest and only rate for the PRC-wide entity from any segment of this administrative proceeding, which is 258.21 percent from the *CLPP PRC Investigation.* The AFA rate selected here is from the investigation. This rate was calculated based on information contained in the petition, which was corroborated for the final determination. *See LTFV Iss. & Dec. Memo* at 38. No additional information has been presented in the current review which calls into question the reliability of the information and the Department's corroboration. In fact, the Department's corroboration of this PRC rate was affirmed by the Court's recent decision in *The Watanabe Group* v *United States,* LEXIS 144; SLIP OP. 2010–139 (Ct. Int'l Trade Dec. 22, 2010) where the Court found that with no evidence specific to the review and no evidence questioning the prior corroboration of the PRC-wide rate, the Department may rely on the corroborated rate from an earlier segment of the proceeding because doing so is based on a reasonable inference from the current record.

Therefore, the Department finds that the information continues to be reliable and relevant and therefore the rate is corroborated.

Preliminary Results of The Review

The Department has determined that the following preliminary dumping margin exists for the period September 1, 2010, through August 31, 2011:

Producer/manufacturer	Weighted-average margin
PRC–Wide Rate (which includes Leo/Denmax)	258.21%

Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825 (March 13, 1997).

[19] *See* SAA at 870; *see also Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada,* 70 FR 12181, 12183 (March 11, 2005).

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 public announcement. *See* 19 CFR 351.224(b). Unless notified by the Department, pursuant to 19 CFR 351.309(c)(ii), 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 five days after the deadline for filing the case briefs. *See* 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Additionally, parties are requested to provide their case briefs and rebuttal briefs in electronic format (*e.g.,* WordPerfect, Microsoft Word, Adobe Acrobat, *etc.*).

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

The Department will issue the final results of this review, including the results of its analysis of issues raised in any written briefs, within 150 days of signature of these preliminary results, unless the final results are extended. *See* section 751(a)(2)(B)(iv) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity (including Leo/Denmax) at the PRC-wide rate. Finally, for those companies for which this review has been preliminarily rescinded, the Department intends to assess antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from ware house, for consumption, in accordance with 19 CFR 351.2121(c) (2), if the review is rescinded for these companies.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of the administrative review for all shipments of CLPP from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) 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; (2) 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 258.21 percent; and (3) for all non-PRC exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC 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.

These preliminary results are issued and published in accordance with sections 751(a)(1), 751(a)(2)(B) and 777(i)(1) of the Act, 19 CFR 351.221(b)(4), and 19 CFR 351.214.

Dated: May 24, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–13369 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–833]

Certain Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain polyester staple fiber (PSF) from Taiwan. The period of review (POR) is May 1, 2010, through April 30, 2011. This review covers imports of certain PSF from one producer/exporter, Far Eastern New Century Corporation (FENC). We have preliminarily found that sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. We are also rescinding the review in part for one firm, Nan Ya Plastics Corporation, for which the request for review was withdrawn in a timely manner. Interested parties are invited to comment on these preliminary results. We will issue the final results not later than 120 days after the date of publication of this notice.

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Michael A. Romani or Minoo Hatten, 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) 482–0198 or (202) 482–1690, respectively.

Background

On June 28, 2011, the Department published a notice initiating an administrative review of the antidumping duty order on certain PSF from Taiwan covering the respondents FENC (formerly known as Far Eastern Textiles Co., Ltd.[1]) and Nan Ya Plastics Corporation (Nan Ya).[2]

On January 30, 2012, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department extended the due date for the preliminary results by 85 days from the original due date of January 31, 2012, to April 25, 2012.[3] Further, on April 11, 2012, the Department extended the due date for the preliminary results by an additional 35 days to May 30, 2012.[4]

Scope of the Order

The product covered by the order is PSF. PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to the order may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 5503.20.00.20 is specifically excluded from the order. Also specifically excluded from the order are PSF of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from the order. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to the order is currently classifiable in the HTSUS at subheadings 5503.20.00.45 and 5503.20.00.65. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Rescission of Review in Part

In accordance with 19 CFR 351.213(d), the Department will rescind an administrative review in part ''if a party that requested a review withdraws the request within 90 days of the date of the publication of notice of initiation of the requested review.'' Subsequent to the initiation of these reviews, we received a timely withdrawal of the request we had received for the review of Nan Ya. Because the Department received no other requests for review of Nan Ya, we are rescinding the review with respect to Nan Ya in accordance with 19 CFR 351.213(d)(1).

Date of Sale

Section 351.401(i) of the Department's regulations states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date from the factory precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.[5]

With respect to FENC's sales to the United States, shipment date usually occurs on or before the date of invoice. The date of shipment is the date on which goods are shipped from the factory. The date of invoice is the date on which the Government Uniform Invoice is issued. Further, based on record evidence, all material terms of sale are established at the time of shipment and do not change prior to the issuance of the invoice. Therefore, we used the date of shipment as the date of sale where shipment date preceded the date of invoice in accordance with our practice. Where the date of invoice preceded the shipment date we used the date of invoice for the date of sale.

For the majority of FENC's home market sales, the goods are shipped from the factory on the same day that the Government Uniform Invoice is issued. For the remaining sales, the invoice date occurs a few days after the date of shipment from the factory. Based on record evidence, all material terms of sale are established at the time of shipment. There is no evidence on the record that there were order changes in the few days between the date of shipment and the issuance of the Government Uniform Invoice. Based upon these facts and in accordance with

[1] On July 8, 2010, the Department published a notice determining that FENC was the successor-in-interest to Far Eastern Textiles Limited. *See Polyester Staple Fiber From Taiwan: Final Results of Changed-Circumstances Antidumping Duty Administrative Review,* 75 FR 39208 (July 8, 2010).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 76 FR 37781 (June 28, 2011).

[3] *See Certain Polyester Staple Fiber From Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,* 77 FR 4543 (January 30, 2012).

[4] *See Certain Polyester Staple Fiber From Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,* 77 FR 21733 (April 11, 2012).

[5] *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand,* 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; *see also Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany,* 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

our practice, we preliminarily determine that shipment date is the appropriate date of sale for all home market sales.

Fair Value Comparison

To determine whether FENC's sales of the subject merchandise from Taiwan to the United States were at prices below normal value, we compared the export price to the normal value as described in the ''Export Price'' and ''Normal Value'' sections of this notice. Pursuant to 19 CFR 351.414(c)(1) and (d), we compared the monthly weighted-average export price of U.S. transactions to the monthly weighted-average normal value of the comparable foreign like product where there were sales made in the ordinary course of trade.[6]

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the ''Scope of the Order'' section above produced and sold by FENC in the comparison market during the POR to be foreign like product for the purposes of determining appropriate product comparisons to U.S. sales of subject merchandise. We made comparisons to weighted-average comparison market prices that were based on all sales which passed the cost-of-production test and on those sales which did not pass the cost-of-production test but were made at prices which were considered to have provided for the recovery of costs within a reasonable period of time. Specifically, in making our comparisons, if an identical home market model was reported, we made comparisons to monthly weighted-average home market prices that were based on all relevant sales during the contemporary month or, lacking such sales, to a previous or subsequent month in the shorter cost period (*See* ''Cost Averaging Methodology'' below). If there were no sales of an identical model available for comparison during the relevant months we substituted the most similar above cost home market model. If there were no home market models with a difference in merchandise of less than twenty percent available we used constructed value for comparison purposes. We calculated the weighted-average comparison market prices on a level of trade-specific basis.

Export Price

For sales to the United States, we calculated export price in accordance with section 772(a) of the Act because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States and because constructed export price methodology was not otherwise warranted. We calculated export price based on the free-on-board or cost-insurance-and-freight price to unaffiliated purchasers in the United States. Where appropriate, we made deductions, consistent with section 772(c)(2)(A) of the Act, for the following movement expenses: Inland freight from the plant to the port of exportation, inland insurance in Taiwan, brokerage and handling, harbor construction fee, trade promotion fees, containerization expenses, international freight, and marine insurance. No other adjustments were claimed or applied.

Normal Value

A. Home Market Viability as Comparison Market

To determine whether there was a sufficient volume of sales of PSF in the home market to serve as a viable basis for calculating normal value, we compared the volume of the respondent's home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise in accordance with section 773(a) of the Act. Pursuant to section 773(a)(1)(B) of the Act, because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for comparison purposes.

B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (*see* H.R. Doc. No. 316, 103d Cong., 2d Sess. 829–831 (1994)), to the extent practicable, we determine normal value based on sales in the comparison market at the same level of trade as the export price. Pursuant to 19 CFR 351.412(c)(1), the normal value level of trade is based on the starting price of the sales in the comparison market or, when normal value is based on constructed value, the starting price of the sales from which we derive selling, general, and administrative expenses and profit. For export price sales, the U.S. level of trade is based on the starting price of the sales in the U.S. market, which is usually from the exporter to the importer.

To determine whether comparison market sales are at a different level of trade than export price sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). If the comparison market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which normal value is based and the comparison market sales at the level of trade of the export transaction, we make a level of trade adjustment under section 773(a)(7)(A) of the Act.

In implementing these principles in this review, we obtained information from FENC regarding the marketing stages involved in making its reported home market and U.S. sales for each channel of distribution. FENC reported one channel of distribution (*i.e.,* direct sales to distributers) and a single level of trade in the U.S. market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: Sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services. Because the sales process and selling functions FENC performed for selling to the U.S. market did not vary by individual customers, the necessary condition for finding they constitute different levels of trade was not met. Accordingly, we preliminarily determined that all of FENC's U.S. sales constitute a single level of trade.

FENC reported a single channel of distribution (*i.e.,* direct sales to end-users) and a single level of trade in the home market. Because the sales process and selling functions FENC performed for selling to home market customers did not vary by individual customers, we preliminarily determine that all of FENC's home market sales constitute a single level of trade.

We found that the export price level of trade was similar to the home market level of trade in terms of selling activities. Specifically, the levels of expense were similar for the selling functions FENC provided in both markets. Accordingly, we considered the export price level of trade to be similar to the home market level of trade and not at a different stage of distribution than the home market level

[6] In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average export prices with monthly weighted-average normal values and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

of trade. Therefore, we matched export price sales to sales at the same level of trade in the home market and no level of trade adjustment under section 773(a)(7)(A) of the Act was necessary.

C. Cost of Production Analysis

In the last administrative review of the order completed prior to the initiation of this review, the Department determined that FENC sold the foreign like product at prices below the cost of producing the merchandise and, as a result, we excluded such sales from the calculation of normal value.[7] Therefore, pursuant to section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that FENC's sales of the foreign like product under consideration for the determination of normal value in the instant review may have been made at prices below cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act and, therefore, outside of the ordinary course of trade. Pursuant to section 773(b)(1) of the Act, we have conducted a COP investigation of FENC's sales in the comparison market (sales below cost test).

1. Cost Averaging Methodology

The Department's normal practice is to calculate an annual weighted-average cost for the POR.[8] However, we recognize that possible distortions may result if we use our normal annual-average cost method during a time of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case-specific record evidence using two primary factors: (1) The change in the cost of manufacturing (COM) recognized by the respondent during the POR must be deemed significant; (2) the record evidence must indicate that sales during the shorter cost-averaging periods could be reasonably linked with the COP or constructed value during the same shorter cost-averaging periods.[9]

a. Significance of Cost Changes

In prior cases, we established 25 percent as the threshold (between the high- and low- quarter COM) for determining that the changes in COM are significant enough to warrant a departure from our standard annual-average cost approach.[10] In the instant case, record evidence shows that FENC experienced significant changes (*i.e.,* changes that exceeded 25 percent) between the high and low quarterly COM during the POR.[11] This change in COM is attributable primarily to the price volatility for purified terephthalic acid (PTA) and monoethylene glycol (MEG) used in the manufacture of PSF. *Id.*

b. Linkage Between Cost and Sales Information

Consistent with past precedent, because we found the changes in costs to be significant, we evaluated whether there is evidence of a linkage between the cost changes and the sales prices during the POR.[12] Absent a surcharge or other pricing mechanism, the Department may alternatively look for evidence of a pattern that changes in selling prices reasonably correlate to changes in unit costs.[13] To determine whether a reasonable correlation existed between the sales prices and underlying costs during the POR, we compared weighted-average quarterly prices to the corresponding quarterly COM for the control numbers with the highest volume of sales in the comparison market and in the United States. Our comparison revealed that sales and costs for all of the selected control numbers for FENC showed reasonable correlation. *See* FENC Cost Calculation Memo at 2–3. After reviewing this information and determining that changes in selling prices correlate reasonably to changes in unit costs, we preliminarily determine that there is linkage between FENC's changing sales prices and costs during the POR.[14] We have preliminarily determined that a shorter cost period approach, based on a quarterly-average COP, is appropriate for FENC because we have found significant cost changes in COM as well as reasonable linkage between costs and sales prices.

2. Calculation of Cost of Production

Before making comparisons to normal value, we conducted a COP analysis of FENC's sales pursuant to section 773(b)(3) of the Act to determine whether home market sales were made at prices below COP and that these costs were not recoverable within a reasonable period of time. For this analysis, the COP is based on a shorter cost-period COP average rather than a period-average COP. *See* the ''Cost Averaging Methodology'' section, above, for further discussion. We calculated FENC's quarterly COP on a product-specific basis, based on the sum of the FENC's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses, interest expenses, and the costs of all expenses incidental to packing the merchandise. We relied on the COP information FENC submitted in its response to our cost questionnaire, including FENC's reported quarterly adjustment to its cost of manufacturing information which accounts for purchases of PTA and MEG from affiliated parties at non-arm's length prices, in accordance with the major input rule of section 773(f) of the Act. *See* Exhibit 2SE–3–4 of FENC's March 9, 2012 response. For control numbers for which there was no production during the POR or during a POR quarter we chose or calculated surrogates respectively.[15]

3. Test of Comparison Market Sales Prices

As required under section 773(b)(2) of the Act, we compared the quarterly weighted average COP to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities. We determined the net

[7] *See Certain Polyester Staple Fiber From Taiwan: Final Results of Antidumping Duty Administrative Review, 75* FR 43921 (July 27, 2010).

[8] *See Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review,* 65 FR 77852 (December 13, 2000), and accompanying Issues and Decision Memorandum at Comment 18, and *Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Canada,* 71 FR 3822 (January 24, 2006), and accompanying Issues and Decision Memorandum at Comment 5 (explaining the Department's practice of computing a single weighted-average cost for the entire period).

[9] *See Stainless Steel Sheet and Strip in Coils From Mexico: Final Results of Antidumping Duty Administrative Review,* 75 FR 6627 (February 10, 2010) (*SSSS from Mexico*), and accompanying Issues and Decision Memorandum at Comment 6 and *Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Duty Administrative Review,* 73 FR 75398 (December 11, 2008) (*SSPC from Belgium*), and accompanying Issues and Decision Memorandum at Comment 4.

[10] *See SSPC from Belgium* and accompanying Issues and Decision Memorandum at Comment 4.

[11] *See* Memorandum from Stephanie Arthur to Neal M. Halper, Director of Office of Accounting, entitled ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Far Eastern New Century Corporation'' (FENC Cost Calculation Memo), dated concurrently with this notice at 2.

[12] *See SSSS from Mexico* and accompanying Issues and Decision Memorandum at Comment 6 and *SSPC from Belgium* and accompanying Issues and Decision Memorandum at Comment 4.

[13] *See SSPC from Belgium* and accompanying Issues and Decision Memorandum at Comment 4.

[14] *Id; see also SSSS from Mexico* and accompanying Issues and Decision Memorandum at Comment 6 and *SSPC from Belgium* and accompanying Issues and Decision Memorandum at Comment 4.

[15] *See* Memorandum from Michael Romani to the File, entitled '' Certain Polyester Staple Fiber from Taiwan: Far Eastern New Century Corporation Analysis Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order '' dated concurrently with this notice at 9.

comparison market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses, and packing expenses.

4. Cost Recovery Analysis

In accordance with sections 773(b)(1)(A) and (B) of the Act, for sales found to be made below cost, we examined whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. As stated in section 773(b)(2)(D) of the Act, prices are considered to provide for recovery of costs if such prices are above the weighted average per-unit COP for the period of investigation or review.

In light of the Court's directives in *SeAH Steel Corp.* v. *United States,* 704 F. Supp. 2d 1353 (Ct. Int'l Trade 2010), and *SeAH Steel Corporation* v. *United States,* 764 F. Supp. 2d 1322 (Ct. Int'l. Trade 2011) to use an unadjusted annual average cost for purposes of the cost recovery test, in the instant review we have used the approach which we adopted recently to test for cost recovery when using an shorter cost period methodology.[16] Using the methodology adopted in *SPT from Turkey,* we calculated a control number specific weighted-average annual price using only those sales that were made below their quarterly COP, and compared the resulting weighted-average price to the annual weighted-average cost per control number. If the annual weighted-average price per control number was above the annual weighted-average cost per control number then we considered those sales to have provided for the recovery of costs and restored all such sales to the normal value pool of comparison-market sales available for comparison with U.S. sales. For further details regarding the cost recovery methodology and the application of our shorter-cost period methodology, *see* the FENC Cost Calculation Memo at 1–2.

5. Results of the Sales Below Cost Test

We found that for certain products, more than 20 percent of the respondent's home market sales were made at prices below COP and, in addition, these below cost sales were made within an extended period of time and in substantial quantities. In addition, pursuant to the cost recovery analysis described above, we found that these sales were at prices which did not permit the recovery of costs within a reasonable period of time. We therefore disregarded these sales from the calculation of normal value, in accordance with section 773(b)(1) of the Act.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated normal value based on the price FENC reported for home market sales to unaffiliated customers which we determined were within the ordinary course of trade. We made adjustments for differences in domestic and export packing expenses in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. We also made adjustments, consistent with section 773(a)(6)(B)(ii) of the Act, for inland freight expenses from the plant to the customer and expenses associated with loading the merchandise onto the truck to be shipped. In addition, we made adjustments for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made these adjustments, where appropriate, by deducting direct selling expenses incurred on home market sales (*i.e.,* imputed credit expenses and warranties) and adding U.S. direct selling expenses (*i.e.,* imputed credit expenses and bank charges) to normal value.

F. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where normal value cannot be based on comparison market sales, normal value may be based on constructed value (CV). Accordingly, for certain sales made by FENC, we based normal value on CV because there were no home market sales in the ordinary course of trade that could be properly compared to those U.S. sales.

Section 773(e)(2)(A) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general and administrative expense (including financing expenses), profit, and U.S. packing costs. We calculated respondent's quarterly materials, general and administrative, and financing costs as described in the ''Cost of Production Analysis'' section above.

For comparisons to export price, we made adjustments to CV for circumstances of sale differences, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. We made circumstances of sale adjustments by deducting direct selling expenses incurred on comparison market sales and adding U.S. direct selling expenses.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 0.00 percent exists for FENC for the period May 1, 2010, through April 30, 2011.

Public Comment

We will disclose the documents resulting from our analysis to parties in this review within five days of the date of publication of this notice. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. See 19 CFR 351.310(c). If a hearing is requested, the Department will notify interested parties of the hearing schedule.

Interested parties are invited to comment on the preliminary results of this review. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included.

We intend to issue the final results of this review, including the results of our analysis of issues raised in any submitted written comments, within 120 days after publication of this notice.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. FENC reported the name of the importer of record and the entered value for all of its sales to the United States during the POR. If FENC's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for the importer's examined sales and the total entered value of those sales in accordance with 19 CFR 351.212(b)(1).

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by FENC for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to

[16] *See Certain Welded Carbon Steel Pipe and Tube From Turkey; Notice of Final Results of Antidumping Duty Administrative* Review, 76 FR 76939 (December 9, 2011) (*SPT From Turkey*).

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).

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of PSF from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for FENC will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the 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; (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate will be 7.31 percent, the all-others rate established in *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber From the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan,* 65 FR 33807 (May 25, 2000).

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.

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

Dated: May 24, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–13372 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–602]

Brass Sheet and Strip From Germany: Notice of Rescission of Antidumping Duty Administrative Review

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

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or George McMahon, 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) 482–5973 or (202) 482–1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2012, the Department published in the **Federal Register** the notice of opportunity to request an administrative review of the antidumping duty order on brass sheet and strip from Germany for the period of review (''POR''), March 1, 2011, through February 29, 2012.[1]

On April 2, 2012, the petitioners [2] timely requested that the Department conduct an administrative review of the following ten producers/exporters of brass sheet and strip from Germany: Aurubis Stolberg GmbH & Co. KG (''Aurubis''), Carl Schreiber GmbH (''Schreiber''), KME Germany AG & Co. KG (''KME''), Messingwerk Plettenberg Herfeld GmbH & Co. KG (''Messingwerk''), MKM Mansfelder Kupfer & Messing GmbH (''MKM''), Schlenk Metallfolien GmbH & Co. KG (''Schlenk''), Schwermetall Halbzeugwerk GmbH & Co. KG (''Schwermetall''), Sundwiger Messingwerke GmbH & Co. KG (''Sundwiger''), ThyssenKrupp VDM GmbH (''ThyssenKrupp''), and Wieland-Werke AG (''Wieland''). Pursuant to this request and in accordance with 19 CFR 351.221(c)(1)(i), the Department published a notice initiating the administrative review of Aurubis, Schreiber, KME, Messingwerk, MKM, Schlenk, Schwermetall, Sundwiger, ThyssenKrupp, and Wieland.[3]

On May 3, 2012, the Department placed on the record and invited interested parties to comment on U.S. Customs and Border Protection (''CBP'') data. *See* Memorandum to the File from George McMahon, Senior International Trade Analyst, through Melissa Skinner, Office Director, concerning ''2011–2012 Antidumping Duty Administrative Review of Brass Sheet and Strip from Germany: Release of Customs and Border Protection (''CBP'') Data,'' dated May 3, 2012. The CBP data query results indicated no entries of subject merchandise during the POR from the ten producers/exporters for which a review was requested.

On May 10, 2012, Schwermetall and Wieland submitted comments on the CBP data, stating that this data indicates that none of the ten companies for which a review was requested is identified in any entry of subject merchandise during the POR. Schwermetall and Wieland further state that there are no entries for the Department to review, and no basis on which the Department may select respondents. Therefore, Schwermetall and Wieland assert that the Department should rescind the instant review.

On May 14, 2012, the petitioners timely withdrew their request for an administrative review of Aurubis, Schreiber, KME, Messingwerk, MKM, Schlenk, Schwermetall, Sundwiger, ThyssenKrupp, and Wieland; all of the companies for which they requested review.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. As noted above, petitioners withdrew their request for review of Aurubis, Schreiber, KME, Messingwerk, MKM, Schlenk, Schwermetall, Sundwiger, ThyssenKrupp, and Wieland (all of the companies for which they requested a review) within 90 days of the date of publication of the notice of initiation. Moreover, no other interested party

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 77 FR 12559 (March 1, 2012).

[2] GBC Metals, LLC of Global Brass and Copper, Inc., dba Olin Brass, Heyco Metals, Inc., Aurubis Buffalo, Inc., PMX Industries, Inc., and Revere Copper Products, Inc.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 77 FR 25401 (April 30, 2012).

requested an administrative review of these respondents. Therefore, in accordance with 19 CFR 351.213(d)(1) and consistent with our practice, we are rescinding this review in its entirety.

Assessment

The Department will instruct CBP to assess antidumping duties on all entries of brass sheet and strip from Germany. 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). The Department intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice of rescission of administrative review.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent increase in antidumping duties by the amount of antidumping duties reimbursed.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 24, 2012.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–13244 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–501]

Circular Welded Carbon Steel Pipes and Tubes From Turkey: Notice of Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to a request by interested parties, the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes (''welded pipe and tube'') from Turkey.[1] This review covers four respondents: Borusan, Erbosan, Toscelik, and Yucel.[2] The Department found that Erbosan and Yucel had no reviewable entries.[3] We preliminarily determine that neither Borusan nor Toscelik made sales below normal value (''NV''). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (''CBP'') to liquidate appropriate entries without regard to antidumping duties. The preliminary results are listed below in the section titled ''Preliminary Results of Review.''

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Christopher Hargett or Victoria Cho, at (202) 482–4161 or (202) 482–5075, respectively; AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Period of Review

The period of review (POR) covered by this review is May 1, 2010, through April 30, 2011.

Background

On May 15, 1986, the Department published in the **Federal Register** the antidumping duty order on welded pipe and tube from Turkey.[4] On May 2, 2011, the Department published a notice of opportunity to request an administrative review of this order.[5] On May 27, 2011, in accordance with 19 CFR 351.213(b)(2), Toscelik self-requested a review.[6] On May 31, 2011, in accordance with 19 CFR 351.213(b)(2), Borusan and Erbosan each self-requested a review. On the same date, domestic interested party U.S. Steel Corporation (''U.S. Steel'') requested reviews of Borusan, Toscelik, and Yucel, in accordance with 19 CFR 351.213(b)(4).[7]

On June 28, 2011, the Department published a notice of initiation of administrative review of the antidumping duty order on welded pipe and tube from Turkey, covering the POR of May 1, 2010, through April 30, 2011. *See Review Initiation,* 76 FR 37781.

On August 5, 2011, the Department sent antidumping duty administrative review questionnaires to Borusan and Toscelik.[8] We received Borusan's and Toscelik's Sections A–D questionnaire response in September 2011.[9] We issued

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 76 FR 37781 (June 28, 2011) (''*Review Initiation*'').

[2] The Department initiated a review on the Borusan Group, which includes Borusan Mannesmann Boru Sanayi ve Ticaret A.S., Borusan Birlesik Boru Fabrikalari San ve Tic., Borusan Istikbal Ticaret T.A.S., Boruson Gemlik Boru Tesisleri A.S., Borusan Ihracat Ithalat ve Dagitim A.S., Borusan Ithicat ve Dagitim A.S., and Tubeco Pipe and Steel Corporation (collectively, ''Borusan''); ERBOSAN Erciyas Boru Sanayi ve Ticaret A.S. (''Erbosan''); Toscelik Profil ve Sac Endustrisi A.S., Toscelik Metal Ticaret A.S., Tosyali Dis Ticaret A.S. (collectively, ''Toscelik''); the Yucel Group and all affiliates, Yucel Boru ve Profil Endustrisi A.S., Yucelboru Ihracat Ithalat ve Pazarlama A.S., and Cayirova Boru Sanayi ve Ticaret A.S. (collectively, ''Yucel.'').

[3] *See* Memo from Christian Marsh to Ronald K. Lorentzen, entitled ''Welded Carbon Steel Pipe and Tube from Turkey (Period of Review: May 1, 2010, through April 30, 2011): Whether Entries Are Reviewable for ERBOSAN Erciyas BoruSanayi ve Ticaret A.S.,'' dated September 20, 2011; memo from Christian Marsh to Ronald K. Lorentzen, entitled ''Welded Carbon Steel Pipe and Tube from Turkey (Period of Review: May 1, 2010, through April 30, 2011): Whether the Yucel Group's Entry Is Properly Classified and Subject to Review,'' dated October 17, 2011.

[4] *See Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products From Turkey,* 51 FR 17784 (May 15, 1986) (''*Antidumping Duty Order*'').

[5] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 76 FR 24460 (May 2, 2011).

[6] *See* Letter from Toscelik to the Department dated May 27, 2011.

[7] *See* Letters from Borusan, Erbosan, and U.S. Steel to the Department dated May 31, 2011.

[8] The questionnaire consists of sections A (general information), B (sales in the home market or to third countries), C (sales to the United States), D (cost of production/constructed value), and E (cost of further manufacturing or assembly performed in the United States). *See* Letters to Toscelik and Borusan from the Department dated August 5, 2011.

[9] *See* Letter from Toscelik to the Department entitled ''Welded Carbon Steel Standard Pipe and Tube Products from Turkey; Tosçelik § A–D response,'' dated September 26, 2011 (''Toscelik QR A–D''); Letter from Borusan to the Department entitled ''Section A–D Response of Borusan Mannesmann Boru Sanayi ve Ticaret A.S. in the 2010–2011 Antidumping Administrative Review Involving Certain Welded Carbon Steel Standard Pipe from Turkey,'' dated September 26, 2011 (''Borusan QR A–D'').

supplemental section A, B, C, and D questionnaires, to which Borusan and Toscelik responded during December 2011 and January, February, March, and April 2012.[10]

In U.S. Steel's request for review of Borusan, U.S. Steel listed Borusan Birlesik Boru Fabrikalari San ve Tic. (''Borusan BBF''), Borusan Istikbal Ticaret T.A.S. (''Borusan ITT''), Boruson Gemlik Boru Tesisleri A.S. (''Borusan GBT''), Borusan Ihracat Ithalat ve Dagitim A.S. (''Borusan IID''), Borusan Ithicat ve Dagitim A.S. (''Borusan ID''), and Tubeco Pipe and Steel (''Tubeco'') as members of the Borusan Group. The Department finds that Borusan BBF, Borusan ITT, Boruson GBT, Borusan IID, BorusanID, and Tubeco are no longer in existence.[11]

On January 18, 2012, the Department extended the time period for issuing the preliminary results of the administrative review from January 31, 2012, to May 31, 2012.[12]

Preliminary Determination of No Reviewable Entries

On September 30, 2011, the Department determined that Erbosan had no reviewable entries during the POR.[13] On October 17, 2011, the Department determined that Yucel had no entries subject to review during the POR.[14] Therefore, based on the record evidence, we preliminarily determine that these respondents had no reviewable entries during the POR.

Moreover, consistent with our practice, we find it appropriate to complete the review and to issue liquidation instructions to CBP concerning entries for Erbosan and Yucel following the final results of the review.[15] If we continue to find that Erbosan and Yucel had no reviewable entries of subject merchandise in the final results, we will instruct CBP to liquidate any existing unliquidated entries of merchandise produced and/or exported by Erbosan and Yucel at the all-others rate.[16]

Scope of the Order

The products covered by this order include circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, or galvanized, painted), or end finish (plain end, beveled end, threaded and coupled). Those pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included in the scope of this order, except for line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Targeted Dumping

U.S. Steel notes that it conducted its own targeted dumping analysis of Toscelik's and Borusan's U.S. sales using the Department's targeted dumping methodology as applied in *Steel Nails* and modified in *Wood Flooring.*[17] Based on its own analysis, U.S. Steel argues the Department should conduct a targeted dumping analysis and employ average-to-transaction comparisons without offsets should the Department find that the record supports its allegation of targeted dumping.[18] Borusan argues that U.S. Steel's arguments are untimely and that if the Department acts on the allegation, it should investigate whether movements in the cost of hot-rolled coil account for differences in Borusan's pricing of the subject merchandise over time.[19]

[10] *See* Letters from Toscelik to the Department, entitled:''Welded Carbon Steel Standard Pipe and Tube Products From Turkey; Tosçelik § A–C supplemental response,'' dated January 27, 2012; ''Welded Carbon Steel Standard Pipe and Tube Products From Turkey; Tosçelik § D supplemental response,'' dated April 2, 2012; and ''Welded Carbon Steel Standard Pipe and Tube Products From Turkey; Tosçelik second § D supplemental response,'' dated April 16, 2012. *See, also,* Letters from Borusan to the Department, entitled: ''Supplemental Section A–C Response of Borusan Mannesmann Boru Sanayi ve Ticaret A.S in the 2010–2011 Antidumping Administrative Review Involving Certain Welded Carbon Steel Standard Pipe from Turkey,'' dated January 5, 2012; ''Supplemental Section A–C Response of Borusan Mannesmann Boru Sanayi ve Ticaret A.S in the 2010–2011 Antidumping Administrative Review Involving Certain Welded Carbon Steel Standard Pipe from Turkey,'' dated March 13, 2012; ''Second Supplemental Section A–C Response of Borusan Mannesmann Boru Sanayi ve Ticaret A.S. in the 2010–2011 Antidumping Administrative Review Involving Certain Welded Carbon Steel Standard Pipe from Turkey,'' dated April 9, 2012; and ''Second Supplemental Section D Response of Borusan Mannesmann Boru Sanayi ve Ticaret A.S. in the 2010–2011 Antidumping Administrative Review Involving Certain Welded Carbon Steel Standard Pipe from Turkey,'' dated May 7, 2012.

[11] *See* Borusan's January 5, 2012, supplemental questionnaire response at pages 3 and 4.

[12] *See Certain Welded Carbon Steel Pipe and Tube From Turkey: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,* 77 FR 2511 (January 18, 2012).

[13] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Assistant Secretary for Import Administration, entitled ''Welded Carbon Steel Pipe and Tube from Turkey (Period of Review: May 1, 2010, through April 30, 2011): Whether Entries Are Reviewable for ERBOSAN Erciyas Boru Sanayi ve Ticaret A.S.,'' dated September 30, 2011.

[14] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Assistant Secretary for Import Administration, entitled ''Welded Carbon Steel Pipe and Tube from Turkey (Period of Review: May 1,2010, through April 30, 2011): Whether the Yucel Group's Entry Is Properly Classified and Subject to Review,'' dated October 17, 2011.

[15] *See Stainless Steel Butt-Weld Pipe Fittings From Italy: Preliminary Results of Antidumping Duty Administrative Review and Preliminary No Shipment Determination,* 76 FR 79651, 79651–52 (December 22, 2011), unchanged in *Stainless Steel Butt-Weld Pipe Fittings From Italy: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination,* 77 FR 24459, 24460 (April 24, 2012); *see also Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[16] *See, e.g., Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922 (May 13, 2010), unchanged in *Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

[17] *See* U.S. Steel Corporation's Allegation of Targeted Dumping with respect to Toscelik, dated May 9, 2012, at 1–8, and U.S. Steel Corporation's Allegation of Targeted Dumping with respect to Borusan, dated May 14, 2012, at 1–8, both (citing *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 33,977 (June 16, 2008), and accompany Issues and Decision Memorandum at Comment 8 (''*Steel Nails*''); *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 76 FR 64318 (Oct. 18, 2011), and accompanying Issues and Decision Memorandum at Comment 4 (''*Wood Flooring*'')).

[18] *See id.* at 5–8.

[19] *See* Borusan's letter to the Department, entitled ''Administrative Review of the Antidumping Duty Order on Certain Welded Carbon Steel Pipe from Turkey for the Period 5/01/10–4/30/11; Response to

Continued

For purposes of these preliminary results, the Department did not conduct a targeted dumping analysis. In calculating the preliminary weighted-average dumping margin, the Department applied the calculation methodology adopted in the *Final Modification for Reviews*.[20] In particular, the Department compared monthly, weighted-average export prices with monthly, weighted-average normal values, and granted offsets for negative comparison results in the calculation of the weighted-average dumping margins.[21] Application of this methodology in these preliminary results affords parties an opportunity to meaningfully comment on the Department's implementation of this recently adopted methodology in the context of this administrative review.

Product Comparison

We compared the EP to the NV, as described in the *Export Price* and *Normal Value* sections of this notice. In accordance with section 771(16) of the Tariff Act of 1930, as amended (''the Act''), we first attempted to match contemporaneous sales of products sold in the United States and comparison market that were identical with respect to the following characteristics: (1) Grade; (2) nominal pipe size; (3) wall thickness; (4) surface finish; and (5) end finish. When there were no sales of identical merchandise in the home market to compare with U.S. sales, we compared U.S. sales with the most similar merchandise based on the characteristics listed above in order of priority listed.

Export Price

Because Borusan and Toscelik sold subject merchandise directly to the first unaffiliated purchaser in the United States prior to importation, and constructed export price (''CEP'') methodology was not otherwise warranted based on the record facts of this review, in accordance with section 772(a) of the Act, we used export price (''EP'') as the basis for all of Borusan and Toscelik's sales.

We calculated EP using, as the starting price, the packed, delivered price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made the following deductions from the starting price (gross unit price), where appropriate: foreign inland freight from the mill to port, foreign brokerage and handling, and international freight.

In addition, Borusan reported an amount for duty drawback which represents the amount of duties on imported raw materials associated with a particular shipment of subject merchandise to the United States that is exempted upon export. Borusan requested that we add the amount to the starting price.[22] To determine if a duty drawback adjustment is warranted, the Department has employed a two-prong test which determines whether: (1) The rebate and import duties are dependent upon one another, or in the context of an exemption from import duties, if the exemption is linked to the exportation of the subject merchandise; and (2) the respondent has demonstrated that there are sufficient imports of the raw material to account for the duty drawback on the exports of the subject merchandise.[23]

After analyzing the facts on the record of this case, we find that Borusan has adequately demonstrated that import duties for raw materials and rebates granted on exports are linked under the Government of Turkey's duty drawback scheme.[24] Additionally, Borusan has provided evidence that its imports of hot-rolled coil are sufficient to account for the duty drawback claimed on the export of subject merchandise.[25] Therefore, consistent with our determination in the 2009–2010 administrative review, we are granting Borusan a duty drawback adjustment for purposes of the preliminary results.[26] Toscelik did not report an amount for duty drawback.

Normal Value

A. Selection of Comparison Market

To determine whether there was a sufficient volume of sales in the comparison market, *i.e.*, Turkey, to serve as a viable basis for calculating NV, we compared Borusan's and Toscelik's home market sales volumes of the foreign like product to their U.S. sales volume of the subject merchandise, in accordance with section 773(a)(1) of the Act. For each company, the aggregate home market sales volume of the foreign like product was greater than five percent of the U.S. sales volume of the subject merchandise.[27] Therefore, we determine that the home market was viable for comparison purposes for Borusan and Toscelik.

B. Affiliated Party Transactions and Arm's Length Test

We included in our analysis Borusan's and Toscelik's home market sales to affiliated customers only where we determined that such sales were made at arm's-length prices, *i.e.*, at prices comparable to prices at which Borusan and Toscelik sold identical merchandise to their unaffiliated customers. To test whether the sales to affiliates were made at arm's-length prices, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts, and packing. Where the prices to that affiliated party were, on average, within a range of 98 to 102 percent of the prices of comparable merchandise sold to unaffiliated parties, we determined that the sales made to the affiliated party were at arm's-length.[28] Conversely, where we found that the sales to an affiliated party did not pass the arm's-length test, then all sales to that affiliated party have been excluded from the dumping analysis.[29]

Targeted Dumping Allegations,'' dated May 17, 2012.

[20] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (''*Final Modification for Reviews*'').

[21] *See id.* at 8102.

[22] *See* Borusan's QR A–D at page C–35.

[23] *See Allied Tube & Conduit Corp.* v. *United States,* 29 C.I.T. 502, 506 (Ct. Int'l Trade 2005). *See also Certain Steel Concrete Reinforcing Bars From Turkey; Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review and Notice of Intent To Revoke in Part,* 72 FR 25253, 25256 (May 4, 2007), unchanged in *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Determination To Revoke in Part,* 72 FR 62630 (November 6, 2007).

[24] *See* Borusan's QR A–D at Exhibit C–8.

[25] *See id.*

[26] *See Certain Welded Carbon Steel Pipe and Tube from Turkey; Notice of Preliminary Results of Antidumping Duty Administrative Review,* 76 FR 33204 (June 8, 2011), unchanged in *Certain Welded Carbon Steel Pipe and Tube From Turkey: Notice of Final Results of Antidumping Duty Administrative Review,* 76 FR 76939 (December 9, 2011).

[27] *See* Borusan QR A–D at page 3; Toscelik QR A–D at page 3.

[28] *See* 19 CFR 351.403(c); *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Ninth Administrative Review of the Antidumping Duty Order on Certain Pasta From Italy,* 71 FR 45017, 45020 (August 8, 2006) (''*Certain Pasta From Italy*''), unchanged in *Notice of Final Results of the Ninth Administrative Review of the Antidumping Duty Order on Certain Pasta From Italy,* 72 FR 7011 (February 14, 2007); *see also* Memorandum from Christopher Hargett to the File, ''Analysis Memorandum for Toscelik Profil ve Sac Endustrisi A.S.'' (''Toscelik's Sales Calculation Memo''), and Memorandum from Christopher Hargett to the File, ''Analysis Memorandum for the Borusan Group'' (''Borusan's Sales Calculation Memo'') both dated concurrent with this notice.

[29] *See Certain Pasta From Italy,* 71 FR at 45020; *see also Antidumping Proceedings: Affiliated Party*

C. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, we determined NV based on sales in the comparison market at the same level of trade (''LOT'') as the EP sales.

Pursuant to 19 CFR 351.412(c)(2), to determine whether EP sales and NV sales were at different LOTs, we examined 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.

We did not make an LOT adjustment under 19 CFR 351.412(e) because there was only one home market LOT for each respondent and we were unable to identify a pattern of consistent price differences attributable to differences in LOTs. *See* 19 CFR 351.412(d).

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, *see* Toscelik's Sales Calculation Memo and Borusan's Sales Calculation Memo.

D. Cost of Production Analysis

The Department disregarded sales below the cost of production (''COP'') in the last completed review in which Borusan and Toscelik participated.[30] Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Borusan and Toscelik made sales of the subject merchandise in their comparison market at prices below the COP in the current review period. Thus, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Borusan and Toscelik. We examined the cost data for Borusan and Toscelik and determined that our quarterly cost methodology is not warranted and, therefore, we have applied our standard methodology of using annual costs based on the reported data, adjusted as described below.

1. Calculation of Cost of Production

Before making any comparisons to NV, we conducted a sales-below-cost analysis of Borusan and Toscelik pursuant to section 773(b) of the Act to determine whether Borusan's and Toscelik's comparison market sales were made at prices below the COP. We compared sales of the foreign like product in the home market with model-specific COP figures. In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication employed in producing the foreign like product, plus amounts for selling, general, and administrative (''SG&A'') expenses, financial expenses, and all costs incidental to placing the foreign like product in packed condition and ready for shipment.

In our sales-below-cost analysis, we relied on the COP information provided by Borusan and Toscelik in their questionnaire responses.[31]

2. Test of Comparison Market Prices

In determining whether to disregard Borusan's and Toscelik's home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. As noted in section 773(b)(2)(D) of the Act, prices are considered to provide for recovery of costs if such prices are above the weighted-average per-unit COP for the period of investigation or review. We determined the net comparison market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, direct and indirect selling expenses, and packing expenses.[32]

3. Results of 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 were at prices less than the COP, we disregarded the below-cost sales because: (1) They were made within an extended period of time in ''substantial quantities,'' in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of POR prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Our cost test for Toscelik and Borusan revealed that, for home market sales of certain models, less than 20 percent of the sales of those models were made at prices below the COP. Therefore, we retained all such sales in our analysis and included them in determining NV. Our cost test for Toscelik and Borusan also indicated that for home market sales of other models, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below cost sales from our analysis and used the remaining above-cost sales to determine NV.[33]

E. Calculation of NV Based on Comparison Market Prices

For Borusan and Toscelik, for those comparison products for which there were sales at prices above the COP, we based NV on home market prices. In these preliminary results, we were able to match all U.S. sales to contemporaneous sales, made in the ordinary course of trade, with sales of either an identical or a similar foreign like product, based on matching characteristics. We calculated NV based on ex-works or delivered prices to unaffiliated customers, or prices to affiliated customers which were determined to be at arm's length (*see* discussion above regarding these sales). We made adjustments, where appropriate, from the starting price for billing adjustments, discounts, rebates, and inland freight. Additionally, we added interest revenue, capped at the amount of the corresponding credit expense.[34] In accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs.

In accordance with section 773(a)(6)(C)(iii) of the Act, we adjusted for differences in the circumstances of

Sales in the Ordinary Course of Trade, 67 FR 69186, 69187 (November 15, 2002).

[30] *See Certain Welded Carbon Steel Pipe and Tube From Turkey; Notice of Preliminary Results of Antidumping Duty Administrative Review,* 76 FR 33204, 33208 (June 8, 2011), unchanged in *Certain Welded Carbon Steel Pipe and Tube From Turkey: Notice of Final Results of Antidumping Duty Administrative Review,* 76 FR 76939 (December 9, 2011).

[31] *See* Toscelik's Sales Calculation Memo and Borusan's Sales Calculation Memo.

[32] *See* Toscelik's Sales Calculation Memo and Borusan's Sales Calculation Memo.

[33] *See* Toscelik's Sales Calculation Memo and Borusan's Sales Calculation Memo.

[34] *See Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review,* 74 FR 40167 (August 11, 2009), and accompanying Issues & Decision Memorandum at Comment 3.

sale. These circumstances included differences in imputed credit expenses and other direct selling expenses, such as the expense related to bank charges and factoring. We also made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

For a detailed description of our calculation of NV based on comparison market prices, *see* Toscelik's Sales Calculation Memo and Borusan's Sales Calculation Memo.

Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for the Turkish lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Business Information Services (Factiva).

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from a benchmark rate by 2.25 percent. The benchmark rate is defined as the rolling average of the rates for the past 40 business days. When we determine that a fluctuation exists, we generally utilize the benchmark rate instead of the daily rate, in accordance with established practice. We did not find that a fluctuation existed during the POR for this administrative review, and, therefore, we used the daily exchange rate.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margins exist for the period May 1, 2010, through April 30, 2011:

Manufacturer/exporter	Weighted-average dumping margin (percent)
Borusan	0.00
Toscelik	0.00

Disclosure

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b).

Comments and Hearing

Interested parties are invited to comment on the preliminary results. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 5 days after the time limit for filing the case briefs. 19 CFR 351.309(d). Parties who submit arguments are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. *See* 19 CFR 351.309(c)(2).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). An electronically filed document must be received successfully in its entirety by the Department by 5 p.m. Eastern Standard Time within 30 days after 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. Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs.

The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any written comments or hearing, within 120 days from publication of this notice, in accordance with section 751(a)(3)(A) of the Act, unless the time limit is extended.

Assessment

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries, pursuant to section 751(a)(1)(B) of the Act and 19 CFR 351.212(b)(1). The Department calculated importer-specific duty assessment rates on the basis of the ratio of the total antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. *See* 19 CFR 351.212(b)(1). Where the assessment rate is above *de minimis,* we will instruct CBP to assess duties on all entries of subject merchandise by that importer. *See id.* Where the importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. *See* 19 CFR 351.106(c)(2). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

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

Cash Deposit Requirements

The following cash deposit rates will be effective upon publication of the final results of this administrative review for all shipments of welded pipe and tube from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Borusan and Toscelik will be the rates established in the final results of this review (except, if the rates are zero or *de minimis,* then zero cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (''LTFV'') investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV investigation conducted by the Department, the cash deposit rate will be 14.74 percent, the ''All Others'' rate established in the LTFV investigation.[35] These cash deposit requirements, when imposed, shall remain in effect until further notice.

[35] *Antidumping Duty Order,* 51 FR at 17784.

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 and/or countervailing 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 and/or countervailing duties occurred and the subsequent assessment of double antidumping and/or increase the antidumping duty by the amount of the countervailing duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 24, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–13231 Filed 5–31–12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–809]

Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation; Preliminary Results of Administrative Review of the Suspension Agreement

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

ACTION: Notice of Preliminary Results of the Administrative Review of the Suspension Agreement on Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation.

SUMMARY: In response to a request from Nucor Corporation (''Nucor''), a domestic interested party, the Department of Commerce (''the Department'') is conducting an administrative review of the Agreement Suspending the Antidumping Duty Investigation of Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation (''the Agreement'') for the period July 1, 2010 through June 30, 2011, to review the current status of, and compliance with, the Agreement. For the reasons stated in this notice, the Department preliminarily determines that the Government of the Russian Federation is in compliance with the Agreement. However, the Department's preliminary evaluation of the status of the Agreement indicates that the Agreement is not meeting its statutory requirement to prevent price undercutting of domestic hot-rolled steel prices. The preliminary results are set forth in the section titled ''Preliminary Results of Review,'' infra. Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to provide: (1) A statement of the issues, and (2) a brief summary of the arguments.

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or Anne D'Alauro, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–0162 or (202) 482–4830.

SUPPLEMENTARY INFORMATION:

Background

On July 12, 1999, the Department and the Ministry of Trade (''MOT'') of the Russian Federation signed an agreement under section 734*(l)* of the Tariff Act of 1930, as amended (the Act), suspending the antidumping duty (''AD'') investigation on hot-rolled flat-rolled carbon-quality steel products (hot-rolled steel) from the Russian Federation. *See Suspension of Antidumping Duty Investigation: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation,* 64 FR 38642 (July 19, 1999). Upon the request of the petitioners, the investigation was continued and the Department made an affirmative final determination of sales at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation,* 64 FR 38626 (July 19, 1999). Likewise, the International Trade Commission (''ITC'') continued its investigation and made an affirmative determination of material injury to an industry in the United States. *See Certain Hot-Rolled Steel Products From Brazil and Russia,* 64 FR 46951 (August 27, 1999). The MOT was the predecessor to the Ministry of Economic Development (''MED'') of the Russian Federation, which is now the relevant agency representing the Government of the Russian Federation for purposes of this Agreement.

On August 1, 2011, Nucor submitted a request for an administrative review pursuant to *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 76 FR 38609 (July 1, 2011). On August 26, 2011, the Department initiated an administrative review of the suspension agreement. *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 76 FR 53404 (August, 26, 2011). On September 22, 2011, and January 4, 2012, the Department issued its questionnaire and supplemental questionnaire, respectively, to the Government of the Russian Federation and to the Russian producers/exporters. Responses from Russian producers, OJSC ''OMK-Steel'' (''OMK''), Mechel OAO, and Novolipetsk Steel (''NLMK''), received on November 21, 2011, reported that their companies had no sales to the United States during the during the period of review (''POR''). The Government of the Russian Federation and those companies with U.S. sales during the POR, namely Joint Stock Company Severstal (''Severstal'') and JSC ''Magnitogorsk & Iron Steel Works'' (''MMK''), submitted responses on November 21, 2011, and January 26, 2012, respectively.

Domestic interested parties, Nucor, ArcelorMittal USA LLC, United States Steel Corporation, Gallatin Steel Company, Steel Dynamics, Inc., and SSAB N.A.D., Inc., submitted comments on October 3, 2011 and February 17, 2012, while Nucor submitted additional comments on October 11, 2011, October 19, 2011, January 17, 2012, February 10, 2012, February 21, 2012, and May 11, 2011. On December 20, 2011, Nucor submitted a response to a questionnaire issued to the company by the Department on November 28, 2011. In their comments, domestic interested parties alleged that offers, and subsequent sales, of Russian hot-rolled steel in the United States are suppressing and undercutting domestic hot-rolled steel prices and, as a result, the Agreement is not fulfilling its statutory requirements.

Russian producers Severstal, NLMK, and MMK submitted comments on October 6, 2011 and, with the additional producer OMK, on February 17, 2012, on the issues raised by domestic interested parties in their above-noted submissions.

On January 31, 2012, the Department requested consultations with MED, under section VIII.C of the Agreement, to discuss the issues of the alleged sales of Russian hot-rolled steel imports at prices that call into question the effectiveness of the Agreement's reference price mechanism and whether or not the Agreement is fulfilling its statutory mandate to prevent the undercutting and suppression of domestic hot-rolled steel prices. On February 23, 2012, the Department and

the MED held consultations in Washington, DC to discuss these issues.

On April 2, 2012, the Department postponed the preliminary results of this review until May 24, 2012. *See Notice of Extension of Time Limit for the Preliminary Results of Administrative Review of the Suspension Agreement on Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation,* 77 FR 19619 (April 2, 2012).

Scope of Review

For the purposes of this Suspension Agreement, ''hot-rolled steel'' means certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness.

Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this agreement.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (''IF'')) steels, high strength low alloy (''HSLA'') steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this agreement, regardless of *Harmonized Tariff Schedule of the United States* (''HTSUS'') definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.012 percent of boron, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this agreement unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this agreement:

—Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including e.g., ASTM specifications A543, A387, A514, A517, and A506).
—SAE/AISI grades of series 2300 and higher.
—Ball bearing steels, as defined in the HTSUS.
—Tool steels, as defined in the HTSUS.
—Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.
—ASTM specifications A710 and A736.
—USS Abrasion-resistant steels (USS AR 400, USS AR 500).
—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14%	0.90% Max	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.063–0.198 inches; Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000–88,000 psi.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.16% Mo 0.21% Max	0.70–0.90%	0.025% Max	0.006% Max	0.30–0.50%	0.50–0.70%	0.25% Max	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14% V(wt.) 0.10 Max	1.30–1.80% Cb 0.08% Max	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.15% Max Nb 0.005% Min	1.40% Max Ca Treated	0.025% Max Al 0.01–0.07%	0.010% Max	0.50% Max	1.00% Max	0.50% Max	0.20% Max

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thicknesses ≤0.148 inches and 65,000 psi minimum for thicknesses >0.148 inches; Tensile Strength = 80,000 psi minimum.

—Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm² and 640 N/mm² and an elongation percentage ≥26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm² and 690 N/mm² and an elongation percentage ≥25 percent for thicknesses of 2 mm and above.

—Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.

—Grade ASTM A570–50 hot-rolled steel sheet in coils or cut lengths, width of 74 inches (nominal, within ASTM tolerances), thickness of 11 gauge (0.119 inches nominal), mill edge and skin passed, with a minimum copper content of 0.20 percent.

The covered merchandise is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00. Certain hot-rolled flat-rolled carbon-quality steel covered include: Vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.01.80. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the covered merchandise is dispositive.

Period of Review

The POR is July 1, 2010 through June 30, 2011.

Preliminary Results of Review

Section 751(a)(1)(C) of the Act specifies that, in an administrative review of a suspension agreement, the Department shall ''review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.'' In this case, the Department and the MOT (the predecessor to the MED) of the Russian Federation signed the Agreement, which suspended the underlying AD investigation on July 12, 1999. Because the Department determined that the Russian Federation was a non-market economy at that time, the Agreement was entered into under section 734(*l*) of the Act, which applies to non-market-economy countries. [1] This section provides that the Department may suspend an investigation upon acceptance of an agreement with a non-market-economy country to restrict the volume of imports into the United States, if the Department determines that the agreement: is in the public interest, effective monitoring is possible, and the agreement ''will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.'' Section 734(*l*)(1). For this purpose, the Agreement's terms established annual quota limits and a reference price mechanism to provide minimum prices for sales of Russian hot-rolled steel imports into the U.S. market. The reference price mechanism relies on quarterly adjustments, based on the average unit prices (''AUVs'') of fairly-traded imports as reported by the U.S. Bureau of the Census, as specified under section III.E of the Agreement.

As discussed above, pursuant to section 734*(l)*(1) of the Act, the Department must ensure that the Agreement ''will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.'' Neither the Act nor the Department's regulations contain a definition of price suppression or undercutting. Moreover, the legislative history does not contain any discussion of the terms price suppression or undercutting. Accordingly, the Department has typically considered Section 771(7)(C) of the Act, which requires the ITC, in its price analysis when determining whether there is material injury to an industry in the United States, to consider ''whether—(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.''

In this administrative review, domestic interested parties have alleged in part that offers, and subsequent sales, of Russian hot-rolled steel in the United States are undercutting domestic hot-rolled steel prices and, as a result, the Agreement is not fulfilling its statutory requirements. In their February 17, 2012 submission, domestic interested parties argue that, due to a combination of pricing and cost changes in the hot-rolled steel industry, most dramatically in the rising price of raw material inputs since 2004, the adjustments made quarterly within the reference price mechanism have failed to keep pace with changes in U.S. prices. The evidence on the record indicates that, once the reference prices became too low relative to U.S. market prices, the subsequent quarterly adjustments were no longer effective in providing new

[1] In a memorandum dated June 6, 2002, based on the evidence of Russian economic reforms to that date, the Department revoked Russia's status as a non-market-economy under section 771(18)(B) of the Act, with such revocation effective as of April 1, 2002.

reference prices that were reflective of U.S. market prices for hot-rolled steel. To demonstrate this point, the current reference price of $408.32/metric ton for A36 hot-rolled steel applicable to the second quarter of 2012 is now below the price for #1 busheling scrap, a type of scrap commonly used to make hot-rolled sheet, of $452/metric ton, as reported in the industry publication *SteelBenchmarker* for March 26, 2012. Further, on the same date, *SteelBenchmarker* reported the U.S. price of hot-rolled band as $763/metric ton—187 percent higher than the reference price issued for the relevant quarter. While these particular data pertain to a period that occurred after the period of this review, they demonstrate the continuing limitations of the reference price mechanism, as adjusted on a quarterly basis under the Agreement, and, thus, the continuing failure of that mechanism to prevent undercutting of U.S. market prices.

In their above-cited submissions on the record of this administrative review, domestic interested parties have provided evidence to demonstrate that the reference prices issued under the Agreement have been consistently below the domestic market prices for hot-rolled steel, as well as below the average prices of hot-rolled steel imports from other countries before and during the POR. *See, e.g.,* the February 10, 2012, submission from Nucor and the February 17, 2012, submission from all domestic interested parties. Further, in examining possible price undercutting by Russian hot-rolled steel imports, the Department looked at the relationship between Russian hot-rolled steel AUVs and U.S. prices during the POR. Using public information, we found that Russian import prices were below U.S. prices in nine out of the 11 months in which imports occurred. *See* Memorandum to the File, from Anne D'Alauro on ''Data Supporting Preliminary Results of Administrative Review'' (May 23, 2012). Furthermore, for three of these months during the POR, February, March, and April 2011, Russian AUVs were significantly below—over $300/metric ton less than— the U.S. prices of hot-rolled steel for those months. *Id.* Guided by Section 771(7)(C) of the Act, which instructs the ITC to consider ''whether—(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States,'' [2] the Department preliminarily determines that there is price undercutting by Russian hot-rolled steel imports of U.S. hot-rolled steel during the POR.

With respect to compliance with the specific terms of the Agreement, such as the quota limits and the reference prices, no party has placed evidence on the record of this review suggesting that the Russian exporters sold hot-rolled steel products in the U.S. market below the applicable reference prices or in excess of the quota, or that any violations of the Agreement occurred, during the POR.

In evaluating the information on the record of this administrative review with respect to the current status of, and compliance with, the Agreement, the Department preliminarily determines that the Agreement's reference price mechanism, in its current form, is no longer preventing price undercutting by Russian imports of hot-rolled steel into the U.S. market, and, as a result, the Agreement is no longer fulfilling its statutory requirement. The record evidence indicates that the adjustments made quarterly within the Agreement's current reference price mechanism have failed to keep pace with changes in U.S. prices. Further, once the reference prices became too low relative to U.S. market prices, the subsequent quarterly adjustments were no longer effective in providing new reference prices that were reflective of U.S. market prices for hot-rolled steel. In addition, the record evidence and the Department's analysis indicate that the failing reference price mechanism, as described, has led to the undercutting of domestic hot-rolled steel price levels by Russian hot-rolled steel imports during the POR. Because the Department has preliminarily found price undercutting, the Department has not reached the question of whether the Agreement is preventing the suppression of domestic price levels by Russian hot-rolled steel imports. However, we will further consider the issue during the course of the administrative review, as necessary. Finally, the Department preliminarily finds no evidence, in the information submitted by interested parties in this administrative review, that the Agreement has not been complied with during the POR.

As noted above, on February 23, 2012, the Department and MED entered into consultations to discuss the issues of the alleged sales of Russian hot-rolled steel imports at prices that call into question the effectiveness of the Agreement's reference price mechanism and whether the Agreement is fulfilling its statutory mandate to prevent the undercutting and suppression of domestic hot-rolled steel prices. The Department intends to move forward with additional consultations with MED during this administrative review, as mutually agreed, in an attempt to resolve these concerns and to bring the Agreement back into alignment with its statutory requirement to prevent the undercutting of domestic price levels for hot-rolled steel.

If, for purposes of the final results of this review, the Department makes no changes to these preliminary results, and no amendment to the Agreement is agreed upon, the Department expects to terminate this Agreement in accordance with section 734(i) of the Act. In addition, if the Department terminates this Agreement pursuant to 734(i), the Department will also direct U.S. Customs and Border Protection to suspend liquidation of all entries of hot-rolled steel from Russia that are entered, or withdrawn from warehouse, for consumption on the date which is 90 days before the date of publication of the notice of termination of the Agreement. *See* 19 CFR sections 351.213(i) and 351.209(c). Section X(C) of the Agreement specifies that the Department may terminate the Agreement at any time upon written notice to the other party. Pursuant to section X(C) of the Agreement, the Department is hereby providing written notice to the MED of the termination of the Agreement. If the Department makes an affirmative final determination that the Agreement is not satisfying the requirements of the statute, and no amendment to address the issue is agreed upon, the Department will terminate the Agreement on the date of the final results.

Public Comment

An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 35 days after the date of publication of this notice. *See* 19 CFR 351.309(d). Parties who submit comments in these proceedings are requested to provide: (1) A statement of

[2] We note that, although we are guided by this provision of the Act, which refers to ''significant price underselling,'' the relevant standard for the Department in evaluating the status of an Agreement refers only to undercutting, not significant undercutting. *See* section 734(*l*)(1) of the Act.

the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, parties submitting case briefs and/or rebuttal briefs are requested to provide the Department with an additional copy of the public version of any such briefs on diskette. The Department will issue the final results of this administrative review, including the results of our analysis of the issues raised in any written comments or at a hearing, if requested, within 120 days of publication of these preliminary results. Given the U.S. market trends and the concerns with respect to the Suspension Agreement's legal viability that the Department is considering in the context of this administrative review, the Department will also evaluate whether there is good cause to accelerate the issuance of the final results (*i.e.,* prior to the 120th day after publication of the preliminary results).

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

Dated: May 23, 2012.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2012–13239 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–808]

Stainless Steel Plate in Coils From Belgium: Notice of Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel plate in coils (steel plate) from Belgium covering the period of review (POR) May 1, 2010, through April 30, 2011. This review covers one producer/exporter of subject merchandise, Aperam Stainless Belgium N.V. (AS Belgium).[1]

We have preliminarily determined that, during the POR, AS Belgium and its affiliate, Aperam Stainless Services and Solutions USA (Aperam USA) made U.S. sales that were below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR.

Interested parties are invited to comment on these preliminary results. The Department will issue the final results within 120 days after publication of the preliminary results.

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska or Eric Greynolds, 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 or (202) 482–6071, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2011, the Department issued a notice of opportunity to request an administrative review of this order for the POR.[2] On May 31, 2011, the Department received a timely request for an administrative review of this antidumping duty order from the respondent, AS Belgium. On June 28, 2011, the Department published in the **Federal Register** a notice of initiation of the administrative review of the antidumping duty order on steel plate from Belgium covering one respondent, AS Belgium.[3]

On June 30, 2011, the Department sent the initial questionnaire covering sections A through D to AS Belgium. We received AS Belgium's response to section A of the Department's questionnaire on August 15, 2011, section C on September 13, 2011, and sections B and D on September 26, 2011. On November 8, 2011, the Department sent to AS Belgium the first supplemental questionnaire for sections A–C and received the response on December 13, 2011. On November 15, 2011, the Department sent to AS Belgium a supplemental questionnaire for section D and received the response on December 14, 2011. On January 25, 2012, the Department issued the second supplemental section A–D questionnaire. We received the response on February 8, 2012.

On February 28, 2012, the Department issued a memorandum to all interested parties to comment on the selection of an alternative source for determining Constructed Value (CV) profit and selling expenses with respect to AS Belgium for the preliminary results of review. On March 13, 2012, the Department received comments on the selection of an alternative source for determining CV profit and selling expenses. On March 20, 2012, the Department received rebuttal comments from petitioners[4] on AS Belgium's response and petitioners' request for verification based upon good cause. Between March and April 2012, AS Belgium and petitioners made numerous submissions.[5]

On December 5, 2011, the Department published a notice extending the time period for issuing the preliminary results of the administrative review from January 31, 2012, to May 30, 2012.[6]

Petitioners in their pre-preliminary submissions dated April 3, April 6, April 12, April 18, and April 24, 2012, raised the issue of bundled sales and targeted dumping. First, they allege that AS Belgium's sales patterns and

[1] We determined that AS Belgium (otherwise known as Aperam) is the successor-in-interest to Arcelor Mittal Stainless Belgium N.V. (AMS Belgium) in an antidumping changed circumstances review. *See Stainless Steel Plate in Coils From Belgium: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 77 FR 21963 (April 12, 2012).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 76 FR 24460 (May 2, 2011).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 76 FR 37781 (June 28, 2011).

[4] Petitioners are Alleghany Ludlum Corporation, North American Stainless, United Auto Workers Local 3303, Zanesville Arco Independent Organization, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, (AFL–CIO/CLC).

[5] On March 22, 2012, AS Belgium submitted comments on petitioners' March 20, 2012 rebuttal comments. On March 23, 2012, petitioners submitted further comments on AS Belgium's March 20, and March 22, 2012 letters. On March 26, 2012, AS Belgium submitted comments on petitioners' March 23, 2012, letter. On April 3, 2012, AS Belgium submitted further comments on petitioners' March 20, and March 23, 2012, letters. On April 3, 2012, petitioners submitted comments in advance of the preliminary results on AS Belgium's September 7, 2011, Section B and September 13, 2011 Section C questionnaire responses (QR) and reinstated their request for verification as based upon good cause. On April 6, 2012, petitioners submitted further comments on AS Belgium's letter dated April 3, 2012. On April 12, 2012, the Department received further comments from petitioners related to the selection of an alternative source for determining CV profit and selling expenses with respect to AS Belgium. On April 16, 2012, petitioners submitted comments on AS Belgium's April 13, 2012 letter. On April 18, 2012, petitioners submitted a letter addressing AS Belgium's April 13, 2012 submission. On April 20, 2012, AS Belgium submitted comments in response to the letter filed by petitioners on April 18, 2012, arguing that there is no good cause for verification or collection of new information. On April 24, 2012, petitioners submitted a renewed request for verification of AS Belgium's data. On April 24, 2012, AS Belgium submitted a letter in response to petitioners' letter of April 12, 2012. On April 27, 2012 AS Belgium submitted a letter in response to petitioners' recent submissions.

[6] *See Stainless Steel Plate in Coils from Belgium: Notice of Extension of Time Limit for Preliminary Results of Administrative Review,* 76 FR 75870 (December 5, 2011).

customer structure in both the home market and the U.S. market provide evidence that the sales of subject merchandise were priced in bundles with non- subject merchandise during the POR. Petitioners urge the Department to investigate further whether AS Belgium was engaged in bundled pricing during the POR. Second, petitioners note that they conducted their own targeted dumping analysis of AS Belgium's U.S. sales using the Department's targeted dumping methodology as applied in *Steel Nails* and *Wood Flooring*.[7] Based on their own analysis, petitioners argue that the Department should conduct a targeted dumping analysis and employ monthly average-to-transaction comparisons in place of monthly average to average comparisons without offsets should the Department find that the record supports its allegation of targeted dumping.[8] AS Belgium objects to the petitioners' allegations of bundled sales and targeted dumping in its submissions dated April 13, April 16, April 20, April 24, and April 27, 2012, and argues that petitioners failed to submit evidence in support of their allegations.

For these preliminary results of review the Department did not have adequate time to consider these comments in their entirety. In calculating the preliminary weighted-average dumping margin, the Department applied the calculation methodology adopted in *Final Modification for Reviews*. [9] In particular, the Department compared monthly weighted-average export prices with monthly weighted-average normal values and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.[10] Application of this methodology in these preliminary results affords parties an opportunity to meaningfully comment on the Department's implementation of this recently adopted methodology in the context of this administrative review. The Department intends to continue to consider, pursuant to 19 CFR 351.414(3)(c), whether another method is appropriate in this administrative review in light of both parties' pre-preliminary comments and any comments on the issue that parties may include in their case briefs.

[7] U.S. Steel Corporation's Allegation of Targeted Dumping, dated May 9, 2012, at 1–8 (citing *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 33,977 (June 16, 2008), and accompany Issues and Decision Memorandum at Comment 8 (*Steel Nails*); *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 76 FR 64318 (Oct. 18, 2011), and accompanying Issues and Decision Memorandum at Comment 4 (*Wood Flooring*).

[8] *See id.* at 5–8.

[9] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[10] *See id.* at 8102.

Scope of the Order

The product covered by this order is certain stainless steel plate in coils. Stainless steel is 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 plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.,* cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this order are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.02, 7219.12.00.05, 7219.12.00.06, 7219.12.00.20, 7219.12.00.21, 7219.12.00.25, 7219.12.00.26, 7219.12.00.50, 7219.12.00.51, 7219.12.00.55, 7219.12.00.56, 7219.12.00.65, 7219.12.00.66, 7219.12.00.70, 7219.12.00.71, 7219.12.00.80, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 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, 7220.90.00.10, 7220.90.00.15, and 7220.90.00.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this order is dispositive.

Scope Rulings

On December 3, 2008, in response to a request by Ugine & Alz Belgium, N.V., the Department issued a final scope ruling that found that stainless steel plate in coils from Belgium with a nominal thickness of 4.75mm, regardless of the actual thickness, are within the scope of the order. *See* the Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Stainless Steel Plate in Coils from Belgium: Final Scope Ruling,'' (December 3, 2008), a public document available in room 7046 of the Central Records Unit in the Main Commerce Building.

Period of Review

The POR is May 1, 2010, through April 30, 2011.

Product Comparisons

In accordance with section 771(16) of the Tariff Act of 1930, as amended (the Act), we considered all products produced by the respondent that are covered by the description contained in the ''Scope of the Order'' section above and were sold in the home market during the POR, to be the foreign like product for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix V of the initial antidumping questionnaire we provided to AS Belgium. *See* the Department's Antidumping Duty Questionnaire dated June 30, 2011. Where there were no sales of similar merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to constructed value.

Normal Value Comparisons

To determine whether sales of subject merchandise from Belgium were made in the United States at less than NV, pursuant to 19 CFR 351.414(c)(1) and (d), we compared Constructed Export Price (CEP) to the NV of the foreign like product in the appropriate corresponding calendar month where there were sales made in the ordinary course of trade, as discussed in the ''Cost of Production Analysis'' section of this notice.[11]

[11] In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Final Modification for Reviews* 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average export prices (or constructed export prices) with monthly weighted-average normal values and granted offsets for non-dumped comparisons in the calculation of the weighted average dumping margin.

Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared AS Belgium's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.404(b), because AS Belgium's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable. Moreover, there is no evidence on the record indicating a particular market situation in the exporting company's country that would not permit a proper comparison of home market and U.S. prices.

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 stated at 19 CFR 351.401(i), the Department will use the respondent's invoice date as the date of sale unless another date better reflects the date upon which the exporter or producer established the essential terms of sale. AS Belgium reported the invoice date as the date of sale for both the U.S. market and the home market because the date of invoice reflects the date on which the material terms of sale were finalized. For more information, *see* the Preliminary Cost Memo and Memorandum to the file from Jolanta Lawska, International Trade Analyst, ''Calculation Memorandum for Aperam Stainless Belgium N.V. for the Preliminary Results of the 10th Administrative Review of Stainless Steel Plate in Coils from Belgium (Prelim Sales Calc Memo), dated May 23, 2012.

For purposes of this review, AS Belgium classified all of its export sales of steel plate to the United States as CEP sales. During the POR, AS Belgium made sales in the United States through its U.S. affiliate, Aperam USA, which then resold the merchandise to unaffiliated customers in the United States. The Department calculated CEP based on packed prices to customers in the United States. We made deductions from the starting price, net of discounts, for movement expenses (foreign and U.S. movement, U.S. customs duty and brokerage, and warehousing) in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e). In addition, because AS Belgium reported CEP sales, in accordance with section 772(d)(1) of the Act, we deducted from the starting price, credit expenses, warranty expenses, and indirect selling expenses, including inventory carrying costs, incurred in the United States and Belgium and associated with economic activities in the United States.

Normal Value

In accordance with section 773(a)(1)(B)(i) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade. In addition, because the NV level of trade (LOT) is at a more advanced stage of distribution than the CEP LOT, and available data provide no appropriate basis to determine a LOT adjustment between NV and CEP, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act. *See* ''Level of Trade'' section, below.

AS Belgium had no sales of subject merchandise in the home market to affiliated customers.

Cost of Production Analysis

In the last administrative review of the order completed prior to the initiation of this review, the Department determined that AS Belgium sold the foreign like product at prices below the cost of producing the merchandise and, as a result, we excluded such sales from the calculation of normal value. *See Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Duty Administrative Review,* 74 FR 53468 (October 19, 2009). Therefore, pursuant to section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that AS Belgium's sales of the foreign like product under consideration for the determination of normal value in the instant review may have been made at prices below COP. Pursuant to section 773(b)(1) of the Act, we have conducted a COP investigation of the respondent's sales in the comparison market.

1. Calculation of Cost of Production

We conducted a COP analysis of AS Belgium's sales pursuant to section 773(b)(3) of the Act to determine whether any home market sales were made at prices below COP. We calculated AS Belgium's COP on a product-specific basis, based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses, interest expenses, and the costs of all expenses incidental to packing the merchandise. We relied on the COP information AS Belgium submitted in its response to our cost questionnaire. We examined the cost data for AS Belgium and determined that our quarterly cost methodology is not warranted and, therefore, we have applied our standard methodology of using annual costs based on the reported data. *See* Memorandum to Neal Halper from Stephanie Arthur, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results of Review,'' (Prelim Cost Calc Memo), dated May 23, 2012.

Test of Comparison Market Sales Prices

Pursuant to section 773(b)(1) of the Act, we compared the weighted-average COP to the per-unit price of the comparison market sales of the foreign like product, to determine whether these sales were made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses and packing expenses which were excluded from COP for comparison purposes.

Results of 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 do not disregard any below- cost sales of that product because we determine that the below-cost sales are 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 determine such sales to have been made in ''substantial quantities.'' *See* section 773(b)(2)(C) of the Act. Based on the results of the COP test, there were no above- cost sales for matching purposes. Further, the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examined below-cost sales occurring during the entire POR. In such cases, because we compared prices to POR-average costs, we also determined that such sales were not made at prices which would permit recovery of all

costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purpose of this administrative review, we disregarded below-cost sales of a given product. Because we find that there were no above- cost sales for matching purposes, pursuant to section 773(b)(1), we based NV on CV for this company.

Calculation of Constructed Value (CV) and Price to Constructed Value Comparisons

Section 773(b)(1) of the Act provides that where no sales made in the ordinary course of trade remain after conducting the COP test, NV shall be based on CV. Accordingly, we are using CV because we find that there were no above- cost sales for matching purposes.

Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general, and administrative (SG&A) expenses, profit, and U.S. packing costs. We calculated the cost of materials, fabrication and general expenses based on the methodology described in the Cost of Production Analysis section above. However, there are no sales made in the ordinary course of trade that we can use to calculate selling expenses and profit for CV pursuant to section 773(e)(2)(A) of the Act. Therefore, we looked to the three alternatives established in section 773(e)(2)(B) of the Act to determine these amounts. The statute does not establish a hierarchy for selecting among the alternative methodologies provided in section 773(e)(2)(B) of the Act for determining selling expenses and profit. *See* Statement of Administrative Action Accompanying the URAA, H.R. Rep. No. 103–316, Vol. 1, at 840 (1994). The first such alternative, under section 773(e)(2)(B)(i) of the Act, provides for the use of actual amounts incurred and realized by the specific exporter or producer in connection with the production and sale of merchandise that is in the same general category of products as the subject merchandise. This option is not available to us for these preliminary results because there is no information on the record to permit a calculation of selling expenses and profit specific to a category of products in the same general category as the subject merchandise sold by AS Belgium. Another statutory alternative, set forth in section 773(e)(2)(B)(ii) of the Act, is the use of the weighted average of the actual amounts incurred and realized by the other exporters or producers that are subject to the investigation or review. This alternative is not available to the Department, because AS Belgium is the sole respondent in this review. Alternative (iii) of section 773(e)(2)(B) of the Act specifies that selling expenses and profit may be calculated based on any other reasonable method, except that the amount for profit may not exceed the amount normally realized by exporters or producers in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise (*i.e.,* the ''profit cap'').

As alternatives (i) and (ii) are not viable options, we determined CV selling expenses and CV profit for AS Belgium in this review pursuant to section 773(e)(2)(B)(iii) of the Act, using the selling expense and profit ratios that were calculated for AS Belgium's home market sales in the 2007–2008 administrative review, the most recently completed review for this respondent. We are applying option (iii) without quantifying a ''profit cap'' because we do not have information allowing us to calculate the amount normally realized by exporters or producers (other than the respondent) in connection with the sale, for consumption in the foreign country, of the merchandise in the same general category. For a more detailed discussion regarding CV profit and CV selling expenses, *see* Prelim Sales Calc Memo. *See also Certain Orange Juice From Brazil: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part,* 75 FR 18794 (April 13, 2010) and *Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part,* 75 FR 50999 (August 18, 2010) (*OJ From Brazil*).

We made adjustments to CV for differences in circumstances of sale in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to CEP, we made circumstance-of-sale adjustments by deducting comparison market direct selling expenses from CV. *See* 19 CFR 351.410(c).

Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *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 (November 19, 1997) (*Plate from South Africa*). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.,* the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to 19 CFR 351.412(c)(1), in identifying LOTs for export price (EP) and comparison-market sales (*i.e.,* NV based on either home market or third-country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act. *See Micron Technology Inc.* v. *United States,* 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001). Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive SG&A expenses, and profit for CV, where possible.

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison-market. In comparing EP or CEP sales at a different LOT in the comparison-market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.,* no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Plate From South Africa,* 62 FR at 61732–33.

In this administrative review, we obtained information from the respondent, AS Belgium, regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by AS Belgium for each channel of distribution. *See* AS Belgium's August 15, 2011, questionnaire response at pages 15–20 and Exhibit A–13. In the U.S. market, AS Belgium reported sales made through one LOT corresponding to two channels of distribution. AS Belgium

made sales to the United States by AS Belgium's affiliated trading company, Aperam USA, through AS Belgium's European affiliates, Aperam Stainless Services & Solutions International (Aperam International) and Aparam Stainless Europe S.A. (Aperam Europe). *See* AS Belgium's August 15, 2011, Section A Questionnaire Response at pages 13, 19 and 23. We have determined that these sales are CEP sales. AS Belgium's two U.S. channels of distribution are: (1) Direct shipment sales in which the merchandise was shipped directly from Aperam USA to the final customer; and (2) sales from inventory maintained by Aperam USA. *See* AS Belgium's August 15, 2011, submission at Exhibit A–11.

AS Belgium requested that a CEP offset should be made in calculating the normal value because according to AS Belgium, the selling activities in the home market are at a more advanced level of trade than the selling activities in the U.S. market. Our analysis of these selling functions performed by AS Belgium in the United States shows that the selling activities and services do not vary according to the channel of distribution. *Id.* We find that there is no variation in type or level of services provided by AS Belgium for the channels of distribution in the United States. AS Belgium provides comparable services for the two channels of distribution in the United States, which only differ based on whether the sale is shipped directly to the final customer or to Aperam USA's inventory. Therefore, based on the lack of differentiation between the type and level of activities associated with AS Belgium's sales into the two distribution channels, we preliminarily determine that there is only one LOT in the U.S. market. *See* Prelim Sales Calc Memo.

With respect to the home market, AS Belgium reported certain customer categories in a single channel of distribution. We examined the selling functions performed for certain customer categories and found that the selling activities and services do not vary by customer category. *See* Prelim Sales Calc Memo. Therefore, we preliminarily conclude that AS Belgium's sales in the home market constitute one LOT.

We analyzed the differences among the reported selling activities which demonstrated that AS Belgium's sales in the home market were at different stages in the marketing process than the U.S. sales. Finally, we compared the U.S. and home market LOTs. As a result of our comparison, we preliminarily determined that AS Belgium's home market LOT is at a more advanced stage of distribution than the CEP LOT.

We then considered whether we could make a LOT adjustment. In this case, AS Belgium only sold at one LOT in the comparison market; therefore, there is no information available to determine a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, in accordance with the Department's normal methodology as described above. *See* 19 CFR 351.412(d). Further, we do not have record information which would allow us to examine pricing patterns based on the respondent's sales of other products, and there are no other respondents or other record information on which such an analysis could be based. Accordingly, because only one LOT exists in the home market we could not make a LOT adjustment. However, because the LOT in the comparison market is at a more advanced stage of distribution than the LOT of the CEP transactions, we made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). For further explanation of our LOT analysis, *see* Prelim Sales Calc Memo.

Preliminary Results of Review

As a result of our review, we preliminarily determine that for the period May 1, 2010, through April 30, 2011, the following dumping margin exists:

Producer/manufacturer	Weighted-average margin (percent)
Arcelor Stainless Belgium (AS Belgium)	10.46

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). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first working day thereafter, unless the Department alters the date pursuant to 19 CFR 351.310(d). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(1)(ii). Rebuttal briefs limited to issues raised in the case briefs may be filed no later than 35 days after the date of publication. *See* 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. 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, within 120 days of publication of these preliminary results. *See* section 751(a)(3)(A) of the Act.

Assessment Rate

Upon completion of the administrative review, the Department shall determine and CBP shall assess antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), for each respondent we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to that importer or customer and dividing this amount by the total value of the sales to that importer (or customer). If AS Belgium's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the importer's examined sales to the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).[12] Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis,* and the respondent has reported reliable entered values, we apply the assessment rate to the entered value of the importer's/customer's entries during the review period. Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis* and we do not have reliable entered values, we

[12] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Final Modification for Reviews, i.e.,* on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.

calculate a per-unit assessment rate by aggregating the dumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the 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).

Cash Deposit Requirements

To calculate the cash deposit rate for AS Belgium, we divided the total dumping margin by the total net value for AS Belgium's sales during the POR.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of steel plate from Belgium entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for AS Belgium will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis,* the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, 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 this or any previous review conducted by the Department, the cash deposit rate will be 9.86 percent, the all-others rate established in the LTFV investigation. 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 increase the subsequent assessment of the antidumping duties by the amount of antidumping duties reimbursed.

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

Dated: May 23, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–13376 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review

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

DATES: *Effective Date:* June 1, 2012.

SUMMARY: On August 1, 2011, the Department of Commerce (the ''Department'') initiated a new shipper review of the antidumping duty order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished (''TRBs'') from the People's Republic of China (''PRC'') covering sale(s) of subject merchandise produced and exported by GGB Bearing Technology (Suzhou) Co., Ltd. (''GGB'') during the period of review (''POR'') of June 1, 2010, through May 31, 2011.[1]

The Department preliminary determines that GGB has not made sales at less than normal value (''NV''). If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (''CBP'') to liquidate all appropriate entries without assessing antidumping duties on those entries of subject merchandise during the POR.

FOR FURTHER INFORMATION CONTACT: Lori Apodaca or Jeff Pedersen, 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) 482–4551 or (202) 482–2769, respectively.

SUPPLEMENTARY INFORMATION: On June 15, 1987, the Department published in the **Federal Register** the antidumping duty order on TRBs from the PRC.[2] On June 30, 2011, the Department received a timely request for a new shipper review from GGB. On August 1, 2011, the Department initiated this new shipper review. *See Initiation Notice.* On September 7, 2011, the Department issued an antidumping duty questionnaire to GGB. Subsequently, the Department issued supplemental questionnaires to GGB. From October 2011 through February 2012, the Department received timely questionnaire and supplemental questionnaire responses from GGB.

On September 28, 2011, Import Administration's Office of Policy issued a memorandum identifying six countries as being at a level of economic development comparable to the PRC for the instant POR. The countries identified in that memorandum are Colombia, Indonesia, the Philippines, South Africa, Thailand, and Ukraine.[3] On November 14, 2011, the Department released the Policy Memorandum to interested parties and provided parties with an opportunity to submit comments regarding the selection of a surrogate country in the instant review.[4] On November 28, 2011, the Petitioner in this proceeding, the Timken Company (''Petitioner'') provided comments on surrogate country selection and publicly-available information to value

[1] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review,* 76 FR 45777 (August 1, 2011) (''*Initiation Notice*'').

[2] *See Notice of Antidumping Duty Order: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China,* 52 FR 22667 (June 15, 1987) (''*TRBs Notice of Antidumping Duty Order*'').

[3] *See* Memorandum regarding Request for a List of Surrogate Countries for New Shipper Review of the Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished (''TRBs'') from the People's Republic of China (''China''), dated September 28, 2011 (''Policy Memorandum'').

[4] *See* Letter from Howard Smith, Program Manager, Office 4, to All Interested Parties regarding Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China, New Shipper Review: Request for Surrogate Country and Surrogate Value Comments and Information, dated November 14, 2011.

factors of production (''FOP'').[5] No other party provided comments on surrogate country selection. On December 5, 2011, GGB provided publicly-available data to value its FOP and also submitted rebuttal comments concerning Petitioner's surrogate value comments.[6]

On March 26, 2012, the Department issued a memorandum providing interested parties with an opportunity to submit comments regarding the information already on the record for the Department to consider in the preliminary results.[7] On April 2, 2012, Petitioner provided comments regarding the information already on the record, and on April 12, 2012, GGB submitted rebuttal comments concerning Petitioner's submission.[8]

Period of Review

The POR is June 1, 2010, through May 31, 2011.

Scope of the Order

Imports covered by the order are shipments of tapered roller bearings and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') item numbers 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15[9] and 8708.99.80.80.[10] Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Bona Fides Sale Analysis

For this review, consistent with the Department's practice, the Department investigated the *bona fide* nature of the sales made by GGB during the POR. In evaluating whether or not a sale in a new shipper review is commercially reasonable, and therefore *bona fide,* the Department considers, *inter alia,* such factors as: (1) The timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm's-length basis. *See, e.g., Tianjin Tiancheng Pharmaceutical Co., Ltd.* v. *United States,* 366 F. Supp. 2d 1246, 1250 (CIT 2005). Accordingly, the Department considers a number of factors in its *bona fides* analysis, ''all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise.'' *See Hebei New Donghua Amino Acid Co., Ltd.* v. *United States,* 374 F. Supp. 2d 1333, 1342 (CIT 2005) (citing *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review,* 67 FR 11283 (March 13, 2002)).

The Department preliminarily finds that the sales of subject merchandise made by GGB were made on a *bona fide* basis. Specifically, the Department preliminarily finds that: (1) While the sales under review were made late in the POR, the timing of the sales by itself does not indicate that the sales might not be *bona fide;* (2) record evidence indicates that overall the price and quantity of the sales are commercially reasonable and not atypical of normal business practices of TRBs exporters; (3) GGB and its customers did not incur any extraordinary expenses arising from the transactions; and (4) the new shipper sales were made between unaffiliated parties at arm's length. While GGB was not able to obtain information from unaffiliated customers demonstrating that the subject merchandise was resold by those customers at a profit,[11] the Department does not find that this failure overcomes the totality of evidence described above demonstrating GGB's sales were *bona fide.* Therefore, the Department has preliminarily found that GGB's sales of subject merchandise to the United States were *bona fide* for purposes of this new shipper review.

Non-Market Economy Country Status

In every antidumping case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (''NME'') country.[12] In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (''the Act''), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment. Accordingly, the Department calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rate

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991) (*Sparklers*), as further developed

[5] *See* Letter from Petitioner regarding, New Shipper Review: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: The Timken Company's Surrogate Country Comments, dated November 28, 2011 (''Petitioner's Surrogate Value Submission'').

[6] *See* Submission from GGB regarding, GGB Bearing Technology Submission of Pre-Prelim Surrogate Values: Tapered Roller Bearings from the People's Republic of China (New Shipper Review: 6/1/2010–5/31/2011), dated December 5, 2011 (''GGB's Surrogate Value Submission'') and submission from GGB regarding, GGB Bearing Technology Submission of Pre-Prelim Rebuttal Surrogate Values, dated December 5, 2011 (''GGB's Rebuttal SV Submission'').

[7] *See* Memorandum regarding Antidumping Duty New Shipper Review of Tapered Roller Bearings from the People's Republic of China- Deadline to submit comments on information, dated March 26, 2012.

[8] Letter from Petitioner regarding, New Shipper Review of the Antidumping Duty Order Covering Tapered Roller Bearings (''TRBs'') and Parts Thereof, Finished or Unfinished, From The People's Republic of China (''PRC'') (06/01/2010–05/31/2011); The Timken Company's Comments on the Department's Preliminary Determination, dated April 2, 2012 (''Petitioner's Preliminary Results Comments'') and letter from GGB regarding, GGB Response to The Timken Company's Comments on the Upcoming Preliminary Results of Review in Tapered Roller Bearings from the People's Republic of China (New Shipper Review: 6/1/2010–5/31/2011), dated April 12, 2012 (GGB's Rebuttal of Preliminary Results Comments'').

[9] Effective January 1, 2007, the HTSUS subheading 8708.99.8015 is renumbered as 8708.99.8115. *See* United States International Trade Commission (''USITC'') publication entitled, ''Modifications to the Harmonized Tariff Schedule of the United States Under Section 1206 of the Omnibus Trade and Competitiveness Act of 1988,'' USITC Publication 3898 (December 2006) found at *www.usitc.gov.*

[10] Effective January 1, 2007, the HTSUS subheading 8708.99.8080 is renumbered as 8708.99.8180; *see Id.*

[11] *See* Memorandum regarding, ''Antidumping Duty New Shipper Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the People's Republic of China: *Bona Fide* Sales Analysis for GGB Bearing Technology (Suzhou) Co., Ltd.,'' dated concurrently with this notice.

[12] *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review,* 68 FR 7500 (February 14, 2003) (unchanged in the final results, *Tapered Rolling Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2001–2002 Administrative Review and Partial Rescission of Review,* 68 FR 70488 (December 18, 2003)).

in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585, 22586–7 (May 2, 1994) (*Silicon Carbide*). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control. *See Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China,* 64 FR 71104, 71104–05 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate).

Separate Rate Recipient

GGB reported that it is wholly owned by a market-economy entity. Therefore, consistent with the Department's practice, a separate-rates analysis is not necessary to determine whether GGB's export activities are independent from government control. We have preliminarily granted a separate rate to GGB.

Surrogate Country

When the Department conducts an antidumping duty new shipper review of imports from an NME country, section 773(c)(1) of the Act directs the Department to base NV, in most circumstances, on the NME producer's FOP valued in a surrogate market-economy country or countries considered appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department will value FOP using ''to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—(A) at a level of economic development comparable to that of the NME country, and (B) significant producers of comparable merchandise.'' Further, pursuant to 19 CFR 351.408(c)(2), the Department will normally value all FOP in a single country.

As stated previously, the Department identified Colombia, Indonesia, the Philippines, South Africa, Thailand, and Ukraine as being at a level of economic development comparable to the PRC.[13] Petitioner argued that Thailand is a significant producer of comparable merchandise, and provided data from the United Nations Commodity Trade Database (''UN COMTRADE''). No other parties commented on the selection of a surrogate country. Based on the above, we have determined that Thailand is a significant producer of merchandise that is comparable to the merchandise under review.

With respect to data considerations in selecting a surrogate country, both Petitioner and GGB have submitted publicly-available Thai data for valuing FOP.[14] The parties did not place data from other potential surrogate countries on the record. Therefore, the Department finds that Thailand has publicly-available data for valuing the FOP.

Thus, the Department has preliminarily selected Thailand as the primary surrogate country because the record shows that Thailand is at a level of economic development comparable to that of the PRC and is a significant producer of merchandise comparable to subject merchandise. Moreover, the record indicates that sufficient, contemporaneous, public Thai data are readily-available.[15] Accordingly, we have calculated NV using Thai prices to value GGB's FOP.[16] In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly-available information to value the FOP until 20 days after the date of publication of the preliminary results.[17]

Fair Value Comparisons

In accordance with 19 CFR 351.414(c)(1) and (d) of the Department's regulations, to determine whether GGB sold TRBs to the United States at less than NV, the Department compared the constructed export price (''CEP'') of U.S. sales to NV, as described in the ''U.S. Price'' and ''Normal Value'' sections of this notice.[18]

In Petitioner's Preliminary Results Comments, Petitioner states that the Department ''intends to compare average export prices and average normal values and will grant offsets'' in administrative reviews, citing the *Final Modification for Reviews.*[19] Petitioner states that, in the *Final Modification for Reviews,* the Department indicated that there may be cases in which the application of a different comparison method is more appropriate. Petitioner states that, in this case, evidence of price differentiation supports using average-to-transaction comparisons without permitting offsets for all sales of the respondent during the POR. Specifically, Petitioner notes that it conducted its own targeted dumping analysis of GGB's U.S. sales using the Department's targeted dumping methodology as applied in *Steel Nails* and modified in *Wood Flooring.*[20] Based on its analysis, Petitioner argues, the Department should conduct a targeted dumping analysis and employ average-to-transaction comparisons without offsets should the Department find that the record supports it.

In GGB's Rebuttal of Preliminary Results Comments, GGB argues that the Department does not have the statutory authority to apply a targeted dumping analysis in an administrative review. Moreover, GGB argues that Petitioner's targeting analysis is flawed. Thus, GGB contends the Department should use an average-to-average comparison methodology or, if it does use an average-to-transaction comparison methodology, it should not apply zeroing but should grant offsets for non-dumped comparisons.

For purposes of these preliminary results, the Department did not conduct a targeted dumping analysis. In calculating the preliminary weighted-

[13] *See* Policy Memorandum. The Department notes that these six countries are part of a non-exhaustive list of countries that are at a level of economic development comparable to the PRC.

[14] *See* Petitioner's Surrogate Value Submission and GGB's Surrogate Value Submission.

[15] *Id.*

[16] *See* Memorandum regarding, ''New Shipper Review of the Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the People's Republic of China: Surrogate Value Memorandum for the Preliminary Results, dated concurrently with this notice (''Surrogate Value Memorandum'').

[17] In accordance with 19 CFR 351.301(c)(1), for the final results of this new shipper review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2. Additionally, for each piece of factual information submitted with surrogate value rebuttal comments, the interested party must provide a written explanation of what information that is already on the record of the ongoing proceeding that the factual information is rebutting, clarifying, or correcting.

[18] In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012) (''*Final Modification for Reviews*'').

[19] *See* Petitioner's Preliminary Results Comments at 4.

[20] *See* Petitioner's Preliminary Results Comments at 5, citing *Certain Steel Nails from the United Arab Emirates: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination,* 76 FR 68129 (Nov. 3, 2011) and *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less than Fair Value,* 76 FR 64318 (Oct. 18, 2011).

average dumping margin the Department applied the calculation methodology adopted in *Final Modification for Reviews.* In particular, the Department compared monthly weighted-average export prices (or constructed export prices) with monthly weighted-average normal values and granted offsets for non-dumped comparisons in the calculation of the weighted average dumping margin. Application of this methodology in these preliminary results affords parties an opportunity to meaningfully comment on the Department's implementation of this recently adopted methodology in the context of this administrative review. The Department intends to continue to consider, pursuant to 19 CFR 351.414(3)(c), whether another method is appropriate in this administrative review in light of both parties' pre-preliminary comments and any comments on the issue that parties may include in their case briefs.

U.S. Price

In accordance with section 772(b) of the Act, we based the U.S. price for GGB's sales on CEP. Section 772(b) of the Act defines CEP 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 section 772 of the Act. Pursuant to section 772(b) of the Act, we used CEP for GGB's U.S. sales because the first sale to an unaffiliated customer was made by GGB's U.S. affiliate.

We calculated CEP for GGB based on sales invoice prices to unaffiliated purchasers in the United States.[21] We made deductions from the U.S. sales price, where applicable, for movement expenses in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, the Department deducted credit expenses, inventory carrying costs and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit. We based movement expenses on either surrogate values (''SVs'') if the expense was paid to an NME company in RMB, or on actual expenses.[22]

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(e) of the Act. When determining NV in an NME context, the Department will base NV on FOP, because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Under section 773(c)(3) of the Act, FOP include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department based NV on FOP reported by GGB for materials, energy, labor and packing.

Factor Valuation

In accordance with section 773(c) of the Act, we calculated NV based on FOP reported by GGB for the POR. To calculate NV, the Department multiplied the reported per-unit factor quantities by publicly-available Thai SVs. In selecting the SVs, the Department considered the quality, specificity, and contemporaneity of the data. As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added to SVs based on Thai import statistics a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory, where appropriate. This adjustment is in accordance with the decision of the Court of Appeals for the Federal Circuit (''CAFC'') in *Sigma Corp.* v. *United States,* 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). For a detailed description of all SVs used to value GGB's reported FOP, *see* Surrogate Value Memorandum.

For the preliminary results, except where noted below, we used Thai import statistics as provided by the Global Trade Atlas (''GTA'') and other publicly available Thai sources in order to calculate SVs for GGB's FOPs (*i.e.,* direct materials, energy, and packing materials) and certain movement expenses. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, contemporaneous with, or closest in time to, the POR, product-specific, and tax-exclusive.[23] The record shows that Thai import statistics from the GTA are contemporaneous with the POR, product-specific, and tax-exclusive.[24] For packing materials, we used the per-kilogram or per-cubic-meter values obtained from the GTA and made adjustments to account for freight costs incurred between the PRC suppliers and GGB and its intermediate product producers' plants.[25]

In those instances where we could not obtain publicly available information contemporaneous to the POR with which to value factors, we adjusted the SVs using, where appropriate, the Thai Wholesale Price Index (''WPI'') as published in the IMF's *International Financial Statistics.*[26]

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME antidumping proceedings.[27] In *Labor Methodologies,* the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics (''Yearbook'').

In these preliminary results, the Department has calculated the labor

[21] *See* GGB's submission regarding, GGB Bearing Technology (Suzhou) Co., Ltd. and Stemco LP Section C Questionnaire Response, dated October 14, 2011, at 3.

[22] For details regarding our CEP calculations, *see* Analysis Memorandum. *See also* Surrogate Value Memorandum.

[23] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam,* 69 FR 71005 (December 8, 2004).

[24] *See* Surrogate Value Memorandum at 2–3.

[25] *See* Surrogate Value Memorandum at 3.

[26] *See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 74 FR 9591, 9600 (March 5, 2009), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less than Fair Value,* 74 FR 36656 (July 24, 2009).

[27] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor,* 76 FR 36092 (June 21, 2011) (''*Labor Methodologies*'').

input using the wage method described in *Labor Methodologies.* To value the respondent's labor input, the Department relied on data reported by Thailand to the ILO in Chapter 6A of the Yearbook. Although the Department further finds the two-digit description under ISIC–Revision 3.1 (''Manufacture of Machinery and Equipment NEC'') to be the best available information on the record because it is specific to the industry being examined, and is therefore derived from industries that produce comparable merchandise, Thailand has not reported data specific to the two-digit description since 2000. However, Thailand did report total manufacturing wage data in 2005. Accordingly, relying on Chapter 6A of the Yearbook, the Department calculated the labor input using total labor data reported by Thailand to the ILO in 2005, in accordance with section 773(c)(4) of the Act. For these preliminary results, the calculated wage rate is 136.85 baht/hour. A more detailed description of the wage rate calculation methodology is provided in the Surrogate Value Memorandum.

We used Thai transport information in order to value the freight-in cost of the raw materials. To value inland truck freight, we obtained data from: (1) Consulting and Business Development in Southeast Asia (2005),[28] and (2) distances from Google Maps, at *http://maps.google.com.* We calculated the per-kilometer price to transport one kilogram (''kg'') of merchandise from Bangkok to five cities in Thailand. We inflated this value to a POR value.[29]

For factory overhead, selling, general, and administrative (''SG&A'') expenses, and profit, we used the financial statements of NSK Bearing Manufacturing (Thailand) Co., Ltd. (''NSK''), JTEKT (Thailand) Co. Ltd. (''JTEKT''), and Koyo Joint (Thailand) Co. Ltd. (''Koyo''). We find that NSK, JTEKT and Koyo are the best available information with which to determine factory overhead as a percentage of the total raw materials, labor and energy (''ML&E'') costs; SG&A expenses as a percentage of ML&E plus overhead (*i.e.,* cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A. All three financial statements cover a period overlapping the POR and are thus contemporaneous with the POR.[30]

The ILO data from Chapter 6A of the Yearbook, which was used to value labor, reflects all costs related to labor, including wages, benefits, housing, training, *etc.* The financial statements used to calculate the surrogate financial ratios do not include itemized details regarding the indirect labor costs incurred. Therefore, the Department has not made adjustments to the surrogate financial ratios.

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 Review

The Department preliminarily determines that the following weighted-average dumping margin exists for the period June 1, 2010, through May 31, 2011:

Exporter/producer	Weighted-average dumping margin (percent)
GGB Bearing Technology (Suzhou) Co., Ltd. (producer and exporter)	0.00

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).

Public Comment

Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c). Rebuttals to written comments must be limited to the issues raised in the written comments and may be filed no later than five days after the deadline for filing case briefs. *See* 19 CFR 351.309(d). Further, parties submitting written comments and rebuttal comments are requested to provide the Department with an additional copy of those comments on a compact disk. Any interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). If requested, a hearing normally will be held two days after the scheduled date for submission of rebuttal comments. *See* 19 CFR 351.310(d). Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department will issue the final results of this new shipper review, which will include the results of its analysis of any issues raised in written comments, within 90 days of the date on which these preliminary results are issued, in accordance with 19 CFR 351.214(i)(1), unless the time limit is extended. *See* 19 CFR 351.214(i)(2).

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. If the weighted-average dumping margin is above *de minimis,* we will calculate importer- (or customer-) specific assessment rates for the merchandise subject to this review.[31] Given that the respondent has reported entered values, we will calculate importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis,* we will apply the assessment rate to the entered value of the importers'/customers' entries during the POR, pursuant to 19 CFR 351.212(b)(1). Where an importer (or customer)-specific per-unit rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties, pursuant to 19 CFR 351.106(c)(2).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this new shipper review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporter listed above, the cash deposit rate will be the rate established in the final results of this review (except, if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash

[28] *See* Petitioner's Surrogate Value Comments at Attachment 9.

[29] *See* Surrogate Value Memorandum.

[30] *See* Surrogate Value Memorandum.

[31] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Final Modification for Reviews, i.e.,* on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.

deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 92.84 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

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

The Department is issuing and publishing this determination in accordance with sections 751(a)(2)(B) and 777(i) of the Act, and 19 CFR 351.214(h) and 351.221(b)(4).

Dated: May 22, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–13241 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Review

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five-year review (''Sunset Review'') of the antidumping duty order listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin,* 63 FR 18871 (April 16, 1998), and in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty order:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–823–810 ...	731–TA–894	Ukraine	Solid Agricultural Grade Ammonium Nitrate (2nd Review).	David Goldberger, (202) 482–4136.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statue and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Internet Web site at the following address: ''*http://ia.ita.doc.gov/sunset/*.'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules can be found at 19 CFR 351.303.

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after March 14, 2011. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Final Rule*'') amending 19 CFR 351.303(g)(1) and (2) and supplemented by *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to

business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. *See* 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that all parties wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218 (c).

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

Dated: May 18, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–13386 Filed 5–31–12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

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

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (''the Department'') conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not-collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after June 2012, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity to Request A Review: Not later than the last day of June 2012,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in June for the following periods:

	Period of review
Antidumping Duty Proceedings	
Japan:	
Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4½ inches) A–588–850	6/1/11–5/31/12
Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4½ inches) A–588–851	6/1/11–5/31/12
Spain: Chlorinated Isocyanurates A–469–814	6/1/11–5/31/12
Taiwan: Helical Spring Lock Washers A–583–820	6/1/11–5/31/12
The People's Republic of China:	
Artist Canvas A–570–899	6/1/11–5/31/12
Chlorinated Isocyanurates A–570–898	6/1/11–5/31/12
Folding Metal Tables and Chairs A–570–868	6/1/11–5/31/12
Furfuryl Alcohol A–570–835	6/1/11–5/31/12
Polyester Staple Fiber A–570–905	6/1/11–5/31/12
Prestressed Concrete Steel Wire Strand A–570–945	6/1/11–5/31/12
Silicon Metal A–570–806	6/1/11–5/31/12
Tapered Roller Bearings A–570–601	6/1/11–5/31/12
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
None.	

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

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

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

All requests must be filed electronically in Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS'') on the IA ACCESS Web site

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

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

at *http://iaaccess.trade.gov. See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263, (July 6, 2011). Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of June 2012. If the Department does not receive, by the last day of June 2012, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the period of review.

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

Dated: May 18, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–13363 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

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

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

Background

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

Upcoming Sunset Reviews for July 2012

The following Sunset Review is scheduled for initiation in July 2012 and will appear in that month's Notice of Initiation of Five-Year Sunset Review.

	Department contact
Antidumping Duty Proceedings	
Honey from Argentina (A–357–812) (2nd Review)	Jennifer Moats, (202) 482–5047.
Steel Concrete Reinforcing Bars from Belarus (A–822–804) (2nd Review)	David Goldberger, (202) 482–4136.
Honey from China (A–570–863) (2nd Review)	Jennifer Moats, (202) 482–5047.
Steel Concrete Reinforcing Bars from China (A–570–860) (2nd Review)	David Goldberger, (202) 482–4136.
Steel Concrete Reinforcing Bars from Indonesia (A–560–811) (2nd Review)	David Goldberger, (202) 482–4136.
Steel Concrete Reinforcing Bars from Latvia (A–499–804) (2nd Review)	David Goldberger, (202) 482–4136.
Steel Concrete Reinforcing Bars from Moldova (A–841–804) (2nd Review)	David Goldberger, (202) 482–4136.
Steel Concrete Reinforcing Bars from Poland (A–455–803) (2nd Review)	David Goldberger, (202) 482–4136.
Steel Concrete Reinforcing Bars from Ukraine (A–823–809) (2nd Review)	David Goldberger, (202) 482–4136.
Countervailing Duty Proceedings	
Honey from Argentina (A–357–813) (2nd Review)	Dana Mermelstein, (202) 482–1391.
Suspended Investigations	
No Sunset Review of suspended investigations is scheduled for initiation in July 2012.	

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

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

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

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

Dated: May 18, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–13383 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an Open Meeting.

SUMMARY: The Renewable Energy and Energy Efficiency Advisory Committee (RE&EEAC) will hold a meeting to deliver a letter and 11 recommendations to the Under Secretary of International Trade at the U.S. Department of Commerce and other U.S. Government officials. The letter voices the Committee's support for the International Trade Administration FY2013 budget and suggests items to consider during the proposed reorganization of the U.S. government trade agencies. The recommendations concern the development and administration of programs and policies to enhance the competitiveness of the U.S. renewable energy and energy efficiency industries, including specific challenges associated with exporting. The recommendations focus on four main areas: addressing local content requirements, increasing access to sources of new capital for investment in the U.S. renewable energy and energy efficiency sectors, increasing the speed of the Overseas Private Investment Corporation's decision-making process and boosting public awareness of the resulting benefits to U.S. employment, and improving finance options pertaining to shipping by U.S. renewable energy exporters. The Committee will also provide feedback on their committee activities, which the Department may use in the committee rechartering process for 2012–2014.

DATES: June 14, 2012, from 9:30 a.m. to 4:30 p.m. Eastern Daylight Time (EDT).

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, Room 4830, 1401 Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Jennifer Derstine, Office of Energy and Environmental Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–3889; email: *jennifer.derstine@trade.gov.* This meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to OEEI at (202) 482–3889.

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Commerce established the RE&EEAC pursuant to his discretionary authority and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) on July 14, 2010. The RE&EEAC provides the Secretary of Commerce with consensus advice from the private sector on the development and administration of programs and policies to enhance the international competitiveness of the U.S. renewable energy and energy efficiency industries. The RE&EEAC held its first meeting on December 7, 2010 and several subsequent meetings to date.

The meeting is open to the public and the room is disabled-accessible. Public seating is limited and available on a first-come, first-served basis. Members of the public wishing to attend the meeting must notify Jennifer Derstine at the contact information above by 5 p.m. EDT on Friday, June 8, in order to pre-register for clearance into the building. Please specify any request for reasonable accommodation at least five business days in advance of the meeting. Last minute requests will be accepted, but may be impossible to fill. A limited amount of time, from 12 p.m. until 12:30 p.m., will be available for pertinent brief oral comments from members of the public attending the meeting.

Any member of the public may submit pertinent written comments concerning the RE&EEAC's affairs at any time before or after the meeting. Comments may be submitted to *jennifer.derstine@trade.gov* or to the Renewable Energy and Energy Efficiency Advisory Committee, Office of Energy and Environmental Industries (OEEI), International Trade Administration, Room 4053; 1401 Constitution Avenue NW., Washington, DC 20230. To be considered during the meeting, comments must be received no later than 5 p.m. EDT on Friday, June 8, 2012, to ensure transmission to the Committee prior to the meeting. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of RE&EEAC meeting minutes will be available within 30 days of the meeting.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2012–13359 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–523–801]

Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

DATES: *Effective Date:* June 1, 2012.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that circular welded carbon-quality steel pipe (certain steel pipe) from the Sultanate of Oman (Oman) is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated dumping margins are listed in the ''Suspension of Liquidation'' section of this notice. Interested parties are invited to comment on this preliminary determination.

Pursuant to requests from interested parties, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

FOR FURTHER INFORMATION CONTACT: John Drury or Ericka Ukrow, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0195 or (202) 482–0405, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 26, 2011, the Department received properly filed petitions concerning imports of certain steel pipe from India, Oman, the United Arab Emirates (UAE), and the Socialist Republic of Vietnam (Vietnam) on behalf of Allied Tube and Conduit, JMC

Steel Group, Wheatland Tube Company (Wheatland Tube), and United States Steel Corporation (collectively, petitioners).[1]

On November 15, 2011, the Department initiated the antidumping duty investigation on certain steel pipe from India, Oman, the UAE, and Vietnam.[2] The Department set aside a period of time for parties to raise issues regarding product coverage and invited all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*.[3] The Department also set aside a time for parties to comment on product characteristics for use in the antidumping duty questionnaire.[4] Since the *Initiation Notice,* the following events have occurred.

On November 22, 2011, the Department notified all interested parties of its intent to select mandatory respondents for this investigation based on U.S. import data obtained from U.S. Customs and Border Protection (CBP) and set aside a period of time for parties to comment on the potential respondent selection. Parties were invited to submit comments within five calendar days from the date of that memorandum.[5]

On December 5, 2011, we received scope comments from SeAH Steel Vina Corp. (SeAH VINA), a producer in the companion antidumping and countervailing duty investigations involving Vietnam.[6] We received rebuttal comments regarding the scope of the investigation from petitioners on December 14, 2011.[7] After reviewing all comments, we have adopted the ''Scope of Investigation'' section of this notice, below. On December 9, 2011, we received comments regarding physical product characteristics from a producer named Universal Tube and Plastics Industries, Ltd. (UTP) and its U.S. affiliate, Prime Metal Corporation USA (Prime Metal) in the companion antidumping and countervailing duty investigations involving the UAE.[8] We received no rebuttal comments concerning product characteristics from interested parties. After reviewing all comments, we have adopted the product characteristics and hierarchy as explained in the ''Product Comparisons'' section of this notice, below.

On December 16, 2011, the United States International Trade Commission (ITC) published its affirmative preliminary determination that there is a reasonable indication that imports of certain steel pipe from India, Oman, the UAE, and Vietnam are materially injuring the U.S. industry, and the ITC notified the Department of its finding.[9]

On December 21, 2011, the Department selected Al Jazeera Steel Products Co. SAOG (Al Jazeera) as the mandatory respondent in this investigation and issued the Department's antidumping duty questionnaire to this respondent on December 22, 2011.[10]

Al Jazeera submitted its response to section A of the Department's antidumping duty questionnaire on January 26, 2012, which was rejected by the Department due to a filing error. It was resubmitted on March 6, 2012.[11] On February 9, 2012, Al Jazeera filed its responses to sections B (*i.e.,* the section covering comparison market sales, BQR) and C (*i.e.,* the section covering U.S. sales, CQR) of the Department's antidumping duty questionnaire.[12]

On February 17, 2012, the Department received an allegation from petitioners that home market sales made by Al Jazeera were made at prices below the cost of production.[13] On February 29, 2012, petitioners made a timely request pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e) for a postponement of the preliminary determination. On March 8, 2012, the Department initiated a sales-below-cost of production investigation with respect to Al Jazeera.[14] Accordingly, the Department requested Al Jazeera to respond to section D (*i.e.,* the section covering the cost of production (COP) and constructed value (CV)) of the Department's antidumping duty questionnaire.

On March 16, 2012, the Department postponed the preliminary determination of this investigation until May 23, 2012.[15] On March 19, 2012, the Department issued its first supplemental questionnaire concerning Al Jazeera's section A–C responses.[16]

On April 3, 2012, petitioner Wheatland Tube filed an allegation that targeted dumping was occurring with respect to certain steel pipe produced and exported from Oman by Al Jazeera. *See* the ''Allegation of Targeted Dumping'' section below.

Al Jazeera submitted its responses to the Department's first supplemental questionnaire (FSQR) and its section D questionnaire (DQR) on April 9, 2012.[17] Petitioners Allied Tube and Conduit and the JMC Steel Group submitted comments on Al Jazeera's DQR on April 11, 2012.[18] Additionally, on April 12, 2012, Al Jazeera filed comments concerning petitioner Wheatland Tube's targeted dumping allegation.[19]

On April 18, 2012, the Department issued a second supplemental questionnaire covering Al Jazeera's section A–C first supplemental response.[20] On April 30, 2012, the Department issued a supplemental questionnaire covering Al Jazeera's section D response.[21] On May 4, 2012, we received the second supplemental

[1] *See* Circular Welded Carbon-Quality Steel Pipe from India, Oman, the UAE, and Vietnam: Antidumping and Countervailing Duty Petitions, October 26, 2011 (hereinafter, the Petitions).

[2] *See Circular Welded Carbon-Quality Steel Pipe From India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations,* 76 FR 72164 (November 22, 2011) (Initiation Notice).

[3] *See Initiation Notice,* 76 FR at 72164; *see also Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[4] *See Initiation Notice,* 76 FR at 72164–65; *see also Preamble,* 62 FR at 27323.

[5] *See* Memorandum from Angelica Mendoza, Program Manager, to All Interested Parties, dated November 22, 2011.

[6] *See* Letter from SeAH VINA to the Department, dated December 5, 2011 (Scope Comments Letter).

[7] *See* Letter from petitioners to the Department, dated December 14, 2011 (Scope Rebuttal Comments Letter).

[8] *See* Letter from Prime Metal Corporation USA and Universal Tube Plastic Industries, Ltd. to the Department, dated December 9, 2011 (Product Characteristics Letter).

[9] *See Circular Welded Carbon-Quality Steel Pipe from India, Oman, the United Arab Emirates, and Vietnam,* Investigation Nos. 701–TA–482–485 and 731–TA–1191–1194 (Preliminary), 76 FR 78313 (December 16, 2011).

[10] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Richard O. Weible, Director, Office 7, titled ''Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman (Oman): Respondent Selection Memorandum,'' dated December 21, 2011.

[11] *See* Memorandum to The File, from John K. Drury, International Trade Compliance Analyst, Office 7, titled ''Antidumping Duty Investigation on Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman: Rejection of Submission,'' dated March 7, 2012.

[12] *See* Letter from Al Jazeera to the Department, dated February 9, 2012.

[13] *See* Letter from Allied Tube and Conduit and JMC Steel Group to the Department (Below Cost Allegation Letter) at 1–7, dated February 17, 2012.

[14] *See* Memorandum to Richard O. Weible, Director, Office 7, titled, ''The Petitioners' Allegation of Sales Below the Cost of Production for Al Jazeera Steel Products Co. SAOG,'' from the Team (Al Jazeera Cost Initiation Memo), dated March 8, 2012.

[15] *See Circular Welded Carbon-Quality Steel Pipe From India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 77 FR 15718 (March 16, 2012).

[16] *See* Letter from the Department Al Jazeera, dated March 19, 2012.

[17] *See* Letter from Al Jazeera to the Department, dated April 9, 2012.

[18] *See* Letter from Allied Tube and Conduit and the JMC Steel Group to the Department, dated April 11, 2012.

[19] *See* Letter from Al Jazeera to the Department, dated April 12, 2012.

[20] *See* Letter from the Department to Al Jazeera, dated April 18, 2012.

[21] *See* Letter from the Department to Al Jazeera, dated April 30, 2012.

response (SSQR) and revised home market and U.S. sales databases from Al Jazeera.[22] A revised cost database was submitted by Al Jazeera on May 9, 2012.[23] On May 15, 2012, we received comments from petitioners regarding the information submitted by Al Jazeera in response to the Department's antidumping duty questionnaire.[24] We received the supplemental cost (*i.e.,* section D) response (SDQR) from Al Jazeera on May 21, 2012, as well as an updated cost database.[25]

Period of Investigation

The period of investigation (POI) is October 1, 2010, to September 30, 2011. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition. *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The products covered by this investigation are circular welded carbon-quality steel pipe from Oman. For a full description of the scope of the investigation, as set forth in the *Initiation Notice, see* the ''Scope of the Investigation'' in Appendix I of this notice.

Scope Comments

As noted above, on December 5, 2011, SeAH VINA, a mandatory respondent in the concurrent AD and CVD investigations of certain steel pipe from Vietnam, filed comments arguing that the treatment of double and triple stenciled pipe in the scope of these investigations differs from previous treatment of these products under other orders on circular welded pipe.[26] Specifically, SeAH VINA claims that the Brazilian, Korean, and Mexican orders on these products exclude ''Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil and gas pipelines * * *''[27] According to SeAH VINA: (i) If the term ''class or kind of merchandise'' has meaning, it cannot have a different meaning when applied to the same products in two different cases; and (ii) the distinction between standard and line pipe reflected in the Brazil, Korean, and Mexican orders derives from customs classifications administered by CBP and, thus, is more administrable.[28]

On December 14, 2011, Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube (collectively, certain petitioners), responded to SeAH VINA's comments stating that the scope as it appeared in the *Initiation Notice* reflected petitioners' intended coverage. More specifically, certain petitioners contend that pipe that is multi-stenciled to both line pipe and standard pipe specifications and meets the physical characteristics listed in the scope (*i.e.,* is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (e.g., polyester coated) surface finish; or has a threaded and/or coupled end finish) is ordinarily used in standard pipe applications.[29] Certain petitioners state that, in recent years, the Department has rejected end-use scope classifications, preferring instead to rely on physical characteristics to define coverage, and the scope of these investigations has been written accordingly.[30] Therefore, certain petitioners ask the Department to reject SeAH VINA's proposed scope modification.

We agree with certain petitioners that the Department seeks to define the scopes of its proceedings based on the physical characteristics of the merchandise. *See Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* 73 FR 31970 (June 5, 2008), and accompanying Issues and Decision Memorandum at Comment 1. Moreover, we disagree with SeAH VINA's contention that once a ''class or kind of merchandise'' has been established that the same scope description must apply across all proceedings involving the product. For example, as the Department has gained experience in administering antidumping duty and countervailing duty orders, it has shifted away from end use classifications to scopes defined by the physical characteristics. *Id.* Thus, proceedings initiated on a given product many years ago may have end use classifications while more recent proceedings on the product would not. *Compare, e.g., Countervailing Duty Order: Oil Country Tubular Goods from Canada,* 51 FR 21783, (June 16, 1986) (describing subject merchandise as being ''intended for use in drilling for oil and gas''), *with Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 3203–04 (January 20, 2010) (describing the subject merchandise in terms of physical characteristics without regard to use or intended use). Finally, certain petitioners have indicated that the domestic industry's intent is to include multi-stenciled products that otherwise meet the physical characteristics set out in the scope.[31] Therefore, for the reasons provided, the Department is not adopting SeAH VINA's proposed modification of the scope.

Product Comparisons

We have considered the comments that were submitted by the interested parties concerning product-comparison criteria. The Department established the appropriate product characteristics to use as a basis for defining models and, when necessary, for comparing similar models, for this and the concurrent antidumping duty investigations of certain steel pipe from the UAE and Vietnam.[32] The comments raised regarding product comparisons are being addressed in all four of the concurrent antidumping duty investigations.

The Department identified five criteria for matching U.S. sales of subject merchandise to normal value (specification/grade, diameter, wall thickness, coating, and end finish) and, as noted above, gave parties to this and the concurrent AD investigations an opportunity to comment within a certain deadline.[33] The only timely comments submitted were from UTP and its U.S. affiliate, Prime Metal. UTP and Prime Metal requested that the placement of the coating characteristic in the model match hierarchy be adjusted from that proposed by the Department, so that it would be the highest in the hierarchy.[34] UTP and Prime Metal argued that the coating characteristic should be highest in the hierarchy of product characteristics because significant cost and price differences are associated with whether or not pipes are coated with zinc

[22] *See* Letter from Al Jazeera to the Department, dated May 4, 2012.

[23] *See* Letter from Al Jazeera to the Department, dated May 9, 2012.

[24] *See* Letter from Allied Tube and Conduit and the JMC Steel Group to the Department, dated May 15, 2012.

[25] *See* Letter from Al Jazeera to the Department, dated May 21, 2012.

[26] *See* Scope Comments Letter at pages 1–4.

[27] *Id.* at 2. *See also Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea, and Taiwan; and Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Order,* 76 FR 66899, 66900 (October 28, 2011).

[28] *See* Scope Comments Letter at page 3.

[29] *See* Scope Rebuttal Comments Letter at 3.

[30] *Id.*

[31] *Id.* at 6.

[32] The Department did not perform a product-specific comparisons analysis for the investigation of certain steel pipe from India as the Department relied on Facts Available to determine the margin.

[33] *See Initiation Notice,* 76 FR at 72164.

[34] *See* Product Characteristics Letter at pages 2–4.

(galvanized), and because of differences in end uses between galvanized pipes and pipes that are not galvanized.[35]

None of the interested parties objected to the inclusion of the coating product characteristic in the hierarchy, and none of the interested parties in the four concurrent certain steel pipe antidumping investigations (India, Oman, UAE, and Vietnam), other than UTP and its U.S. affiliate Prime Metal, suggested during the time allotted for comments on model match issues that the placement of the coating product characteristic in the model match hierarchy should be changed from that originally proposed by the Department.

The Department is not modifying the model match hierarchy that it originally proposed to incorporate the suggestion of UTP and Prime Metal. The goal of the product characteristic hierarchy is to identify the best possible matches with respect to the characteristics of the merchandise. While variations in cost may suggest the existence of variation in product characteristics, such variations do not constitute differences in products in and of themselves. Furthermore, the magnitude of variations in cost may differ from company to company, and even for a given company over time, and therefore do not, in and of themselves, provide a reliable basis for identifying the relative importance of different product characteristics. The Department has noted that for defining products and creating a model match hierarchy, ''{t}he physical characteristics are used to distinguish the differences among products across the industry,'' that ''{c}ost is not the primary factor for establishing these characteristics,'' and, in short, ''{c}ost variations are not the determining factor in assigning product characteristics for model-matching purposes.'' *See Stainless Steel Wire Rod From Sweden: Final Results of Antidumping Duty Administrative Review,* 73 FR 12950 (March 11, 2008), and accompanying Issues and Decision Memorandum at Comment 1.[36]

UTP and Prime Metal also refer to price and end-use differences regarding galvanized versus non-galvanized pipe, but the Department's proposed hierarchy for the certain steel pipe antidumping duty investigations did include coating as a characteristic because whether or not the product is coated (*e.g.,* galvanized) is important enough to distinguish products from one another. *See, e.g.,* ''Scope of the Investigation'' in Appendix I. However, differences in other product characteristics also influence potential end uses. Neither UTP nor Prime Metal demonstrated why the coating product characteristic should be considered the most important of all when defining models and for comparison purposes and, as noted above, no other interested parties argued for such a change in a timely manner.

Therefore, as noted above, the Department is not modifying the hierarchy it proposed at the outset of the AD investigations and included in the questionnaires it issued to the respondents.

In accordance with section 771(16) of the Act, all products produced by Al Jazeera, covered by the description in the ''Scope of Investigation'' section in Appendix I and sold in Oman during the POI, are considered to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. We have relied on the above mentioned five criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product. Where there were no sales of identical merchandise in the home market to compare to subject merchandise sold in the United States, we compared these U.S. sales to home-market sales of the most-similar, foreign like product on the basis of the reported product characteristics and instructions provided in the antidumping questionnaire, which were made in the ordinary course of trade. Where we were unable to find a home market match of such or similar merchandise, in accordance with section 773(a)(4) of the Act, we based NV on CV. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

Date of Sale

19 CFR 351.401(i) states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.[37] The Court of International Trade (CIT) has stated that a ''party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to 'satisfy' the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.'' [38] Alternatively, the Department may exercise its discretion to rely on a date other than invoice date if the Department ''provides a rational explanation as to why the alternative date 'better reflects' the date when 'material terms' are established.'' [39] The date of sale is generally the date on which the parties establish the material terms of the sale,[40] which normally includes the price, quantity, delivery terms and payment terms.[41]

In this case, Al Jazeera reported the invoice date as the home market date of sale and argued that the U.S. date of sale should be the purchase order date because U.S. sales are produced to order. Al Jazeera explains that once a purchase order is confirmed by the U.S. customer, there are no changes in the material terms of sale. Al Jazeera notes that quantity can change but remains within specified weight tolerances. *See* Al Jazeera's AQR at 15, CQR at 62, FSQR at 4–7 and 21. Per the Department's request, Al Jazeera provided a concordance table that showed ordered quantities and prices versus actual shipped quantities and prices for all confirmed purchase orders and shipments during the POI. *See* Al Jazeera's SSQR at 8–11 and Exhibit 4. This table showed few instances in which shipments fell outside of the purchase order tolerance for quantity and, therefore, the material terms of sale changed from order to invoice. However, in comparing the information submitted in the table to the reported U.S. sales database, we noted that information in the database regarding invoice dates, actual sales, and purchase order dates, was missing. *See* Al Jazeera's SSQR at Exhibit 4 and U.S. sales database (''ajsp_us03''). Due to the insufficient information on the record, the Department is unable to ascertain that the purchase order date satisfies the

[35] *Id.*

[36] Also, the Department's ''* * * selection of model match characteristics {is based} on unique measurable physical characteristics that the product can possess'' and ''differences in price or cost, standing alone, are not sufficient to warrant inclusion in the Department's model-match of characteristics which a respondent claims to be the cause of such differences.'' *See Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey,* 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Model Match Comment 1.

[37] *See* 19 CFR 351.401(i); *see also Allied Tube & Conduit Corp.* v. *United States,* 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) (*Allied Tube*).

[38] *See Allied Tube,* 132 F. Supp. 2d at 1090 (brackets and citation omitted).

[39] *SeAH Steel Corp.* v. *United States,* 25 C.I.T. 133, 135 (Ct. Int'l Trade 2001).

[40] 19 CFR 351.401(i).

[41] *See USEC Inc.* v. *United States,* 31 C.I.T. 1049, 1055 (Ct. Int'l Trade 2007).

Department's definition of the date of sale and, therefore, whether it is appropriate to use it as the U.S. date of sale. Accordingly, consistent with the relevant regulation, the Department has determined to use invoice date as the U.S. date of sale for purposes of this preliminary determination. *See* 19 CFR 351.401(i).

In accordance with this determination, we are excluding from our analysis those sales which are known to be based on purchase order contracts executed in the POI but shipped outside of the POI because it is unclear whether the material terms of these sales were set during the POI. In addition, we have included sales pursuant to purchase orders executed prior to, or during, the POI, and shipped during the POI. We will further examine whether there is other information that denotes a more appropriate date of sale as it is unclear from the record whether the material terms of these sales were set prior to the POI. We intend to issue a supplemental questionnaire to Al Jazeera to address the inconsistencies found. For further details, *see* Memorandum to The File, through Angelica Mendoza, Program Manager, from John Drury and Ericka Ukrow, International Trade Analysts, titled ''Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman: Al Jazeera Steel Products Co. SAOG,'' dated May 23, 2012 (Al Jazeera Preliminary Analysis Memorandum).

Targeted Dumping Allegation

The statute allows the Department to employ the average-to-transaction margin-calculation methodology under the following circumstances: (1) There is a pattern of export prices that differ significantly among purchasers, regions, or periods of time; and (2) the Department explains why such differences cannot be taken into account using the average-to-average or transaction-to-transaction methodology. *See* section 777A(d)(1)(B) of the Act.

On April 3, 2012, petitioner Wheatland Tube submitted timely allegations of targeted dumping with respect to Al Jazeera and asserted that the Department should apply the average to-transaction methodology in calculating the margins for this respondent.[42] In its allegations, petitioner Wheatland Tube asserted that there are patterns of U.S. sales prices for comparable merchandise that differ significantly among purchasers, time periods, and regions. Petitioner Wheatland Tube relied on the Department's targeted dumping test in *Certain Steel Nails From the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value,* 73 FR 33985 (June 16, 2008), and *Certain Steel Nails From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 33977 (June 16, 2008) (collectively, *Nails*), as applied in more recent investigations such as *Multilayered Wood Flooring from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 76 FR 30656, 30659–60 (May 26, 2011). *See* petitioner Wheatland Tube's Submission of Targeted Dumping Allegations dated April 3, 2012, at pages 2–5.

A. Targeted Dumping Test

We conducted customer, time-period, and region targeted dumping analyses for Al Jazeera using the methodology we adopted in *Nails* and most recently articulated in *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia: Final Determination of Sales at Less Than Fair Value,* 75 FR 59223 (September 27, 2010) (*Coated Paper*), and accompanying Issues and Decision Memorandum at Comment 1; and *Multilayered Wood Flooring From the Peoples Republic of China: Final Determination of Sales at Less Than Fair Value,* 76 FR 64318 (October 18, 2011) (*Wood Flooring*), and accompanying Issues and Decision Memorandum at Comment 4.

The methodology we employed involves a two-stage test; the first stage addresses the pattern requirement and the second stage addresses the significant-difference requirement. *See* section 777A(d)(1)(B)(i) of the Act, *Nails, Coated Paper, and Wood Flooring.* In this test, we made all price comparisons on the basis of identical merchandise (*i.e.,* by control number (CONNUM)). We based all of our targeted dumping calculations on the U.S. net price, which we determined for U.S. sales by Al Jazeera in our standard margin calculations. For further discussion of the test and results, *see* the Al Jazeera Preliminary Analysis Memorandum. As a result of our analysis, we preliminarily determine that there is a pattern of U.S. prices for comparable merchandise that differs significantly among certain regions and time periods for Al Jazeera in accordance with section 777A(d)(1)(B)(i) of the Act and our current practice as discussed in *Nails, Wood Flooring, and Coated Paper.*

B. Price Comparison Method

Section 777A(d)(1)(B)(ii) of the Act states that the Department may compare the weighted average of the NV to export prices (EPs) (or constructed export prices (CEPs)) of individual transactions for comparable merchandise if the Department explains why differences in the patterns of EPs (or CEPs) cannot be taken into account using the average-to-average methodology. As described above, we preliminarily determine that, with respect to sales by Al Jazeera, for certain regions and time periods there was a pattern of prices that differed significantly. We find that these differences cannot be taken into account using the standard average-to average methodology because the average-to-average methodology conceals differences in the patterns of prices between the targeted and non-targeted groups by averaging low-priced sales to the targeted group with high-priced sales to the non-targeted group. Therefore, pursuant to section 777A(d)(1)(B) of the Act, for the preliminary determination we find that the standard average-to-average methodology does not take into account Al Jazeera's price differences because the standard methodology masks dumping that is unmasked by application of the alternative average-to-transaction comparison method to all of Al Jazeera's U.S. sales. Accordingly, for this preliminary determination, we applied the average-to-transaction methodology to all U.S. sales made by Al Jazeera. *See* the Al Jazeera Preliminary Analysis Memorandum for further discussion.

Fair Value Comparisons

To determine whether Al Jazeera's sales of certain steel pipe from Oman to the United States were made at LTFV during the POI, we compared the EP of these U.S. sales NV or CV, as appropriate, as described in the ''Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(1)(B) of the Act, we compared POI transaction-specific EPs to POI weighted-average NVs of foreign like product where there were sales made in the ordinary course of trade, as discussed in the ''Price-to-Price Comparisons'' section below.

Export Price

Section 772(a) of the Act defines EP as ''the price at which the subject merchandise is first sold (or agreed to be

[42] *See* Letter from Wheatland Tube (petitioner) to the Department, dated April 3, 2012.

sold) before the date of importation by the producer or exporter of 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).''

For purposes of this preliminary determination, we calculated EP for Al Jazeera, in accordance with section 772(a) of the Act, because the merchandise was sold, prior to exportation by the producer, outside of the United States to the first unaffiliated purchaser in the United States. For Al Jazeera, we calculated EP based on the packed price that was charged to the first unaffiliated U.S. customer. We made deductions for movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act, including deductions for foreign inland freight (plant/warehouse to the border), ocean freight, and brokerage and handling. We also made adjustments, where appropriate, for credit expenses, certain direct selling expenses (including commissions and bank charges), and billing adjustments. *See* the Al Jazeera Preliminary Analysis Memorandum for a detailed discussion of these adjustments.

Normal Value

A. Home Market Viability and Comparison-Market Selection

To determine whether there is a sufficient volume of sales of certain steel pipe 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 equal to or greater than five percent of the aggregate volume of U.S. sales), we compared respondent's volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise during the POI. *See* section 773(a)(1)(B) of the Act. Based on this comparison, we determined that Al Jazeera had a viable home market during the POI. Consequently, we based NV on Al Jazeera's home market sales.

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

Pursuant to its regulations, the Department may use prices from sales made to affiliated parties if the price is comparable to the price at which the exporter or producer sold the foreign like product to a non-affiliate. *See* 19 CFR 351.403(c). However, the Department will not calculate NV based on the sale to an affiliated party if sales of the foreign like product by an exporter or producer to affiliated parties account for less than five percent of the total value (or quantity) of the exporter's or producer's sales of the foreign like product in the market in question, or if sales to the affiliated party are comparable, as defined in 19 CFR 351.403(c). *See* 19 CFR 351.403(d). During the POI, Al Jazeera sold the foreign like product to an affiliated customer. However, these sales constituted less than five percent of Al Jazeera's total aggregate sales of foreign like product in the home market. *See* Al Jazeera's FSQR at 3, 9, and Exhibit 4. Accordingly, and pursuant to the Department's regulations, we have not used any of Al Jazeera's sales to the affiliated customer as all of these sales failed the arm's-length test.

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 the EP or CEP. *See also* section 773(a)(7) of the Act. The LOT for NV is based on the starting prices of sales in the home market or, when NV is based on CV, those of the sales from which we derived selling, general, and administrative expenses and profit. *See* 19 CFR 351.412(c)(1)(iii). For EP, the LOT is based on the starting price, which is usually the price from the exporter to the importer. *See* 19 CFR 351.412(c)(1)(i). In this investigation, Al Jazeera reported only EP sales to the United States.[43]

To determine if the home-market sales are made at a different LOT than EP sales, we examined stages in the marketing process and the selling functions performed along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). If home-market sales are at a different LOT, as manifested in a pattern of consistent price differences between the sales on which NV is based and home-market sales made at the LOT of the export transaction, and the difference affects price comparability, then we make a LOT adjustment to NV under section 773(a)(7)(A) of the Act and 19 CFR 351.412. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731, 61733 (November 19, 1997).

In this investigation, we obtained information from Al Jazeera regarding the marketing stages involved in making their reported home market and U.S. market sales, including a description of the selling activities performed by Al Jazeera for each channel of distribution. *See* Al Jazeera's AQR at 11–13 and Attachment 5 (selling activities chart); *see also* Al Jazeera's BQR at 29 and 70. We did not make a LOT adjustment under section 773(a)(7)(A) of the Act and 19 CFR 351.412(e) because we preliminarily find that there was only one home market LOT and one U.S. LOT, and the two were identical. *See* 19 CFR 351.412(d). For a detailed description of our LOT methodology and a summary of Al Jazeera's LOT findings for this preliminary determination, *see* Al Jazeera Preliminary Analysis Memorandum.

D. Cost of Production Analysis

Based on the Department's analysis of the petitioners' allegation,[44] we initiated a sales-below-cost investigation to determine whether Al Jazeera had sales that were made at prices below their COP pursuant to section 773(b) of the Act. *See* Al Jazeera Cost Initiation Memorandum.

1. Calculation of Cost of Production

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative (SG&A) expenses and packing, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by Al Jazeera on May 9, 2012. We did not rely on the COP data submitted by Al Jazeera on May 21, 2012. Based on the review of record evidence, respondents did not appear to experience significant changes in the cost of manufacturing during the period of investigation. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

2. Test of Comparison Market Prices

With respect to Al Jazeera, on a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product, in order to determine whether the sale prices were below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices were net of billing adjustments, movement charges, discounts, direct and indirect selling expenses and packing expenses, where appropriate. *See* Al Jazeera Preliminary Analysis Memorandum.

[43] *See* AQR at Exhibit 1, CQR database.

[44] *See* Below Cost Allegation Letter.

3. Results of COP Test

Section 773(b)(1) provides that where sales made at less than the COP ''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'' the Department may disregard such sales when calculating NV. Pursuant to section 773(b)(2)(C)(i) of the Act, we did not disregard below-cost sales that were not made in ''substantial quantities,'' *i.e.,* where less than 20 percent of sales of a given product were at prices less than the COP. We disregarded below-cost sales when they were made in substantial quantities, *i.e.,* where 20 percent or more of a respondent's sales of a given product were at prices less than the COP and where ''the weighted average per unit price of the sales * * * is less than the weighted average per unit cost of production for such sales.'' *See* section 773(b)(2)(C)(ii) of the Act. Finally, based on our comparison of prices to the weighted-average COPs for the POI, we considered whether the prices would permit the recovery of all costs within a reasonable period of time. *See* section 773(b)(2)(D) of the Act.

Therefore, for Al Jazeera, we disregarded below-cost sales of a given CONNUM of 20 percent or more and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. *See* Al Jazeera Preliminary Analysis Memorandum.

E. Calculation of Normal Value Based on Comparison-Market Prices

We calculated NV for Al Jazeera based on the reported packed, ex-factory or delivered prices to comparison market customers. We made deductions from the starting price, where appropriate, for billing adjustments, inland freight and insurance, pursuant to section 773(a)(6)(B)(ii) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), we made, where appropriate, circumstance-of-sale adjustments (*i.e.,* bank charges). We added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign-like product and subject merchandise. *See* 19 CFR 351.411(b). For detailed information on the calculation of normal value, *see* the Al Jazeera Preliminary Analysis Memorandum.

F. Price-to-CV Comparison

Where we were unable to find a home market match of such or similar merchandise, in accordance with section 773(a)(4) of the Act, we based NV on CV. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

G. Constructed Value

In accordance with section 773(e) of the Act, and where applicable, we calculated CV based on the sum of Al Jazeera's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the ''Cost of Production Analysis'' section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Al Jazeera in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank.[45] However, the Federal Reserve Bank does not track or publish exchange rates for the Omani Rial. Therefore, pursuant to section 773A of the Act, we made currency conversions from Omani Rials to U.S. dollars based on the daily exchange rates from Factiva, a Dow Jones & Reuters Retrieval Service.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information relied upon in making our final determination for Al Jazeera.

Preliminary Determination

The preliminary weighted-average dumping margins are as follows:

Manufacturer/exporter	Weighted-average margin (percent)
Al Jazeera Steel Products Co. SAOG	5.59
All Others	5.59

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct CBP to suspend liquidation of all entries of certain steel pipe from Oman that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Consistent with the Department's practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit or posting of a bond equal to the amount by which NV exceeds EP or CEP, less the amount of the countervailing duty determined to constitute an export subsidy.[46] In this case, although the product under investigation is also subject to a concurrent countervailing duty investigation, the Department preliminarily found no countervailable export subsidy.[47] Therefore, we have not offset the cash deposit rates shown above for purposes of this preliminary determination.

We will instruct CBP to require a cash deposit or the posting of a bond equal to the preliminary weighted-average dumping margins indicated in the chart above, as follows: (1) The rate for Al Jazeera will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 5.59 percent, as discussed in the ''All-Others Rate'' section, below. These suspension of liquidation instructions will remain in effect until further notice.

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated ''All Others'' rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers

[45] *See Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France,* 68 FR 47049, 47055 (August 7, 2003), unchanged in *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From France,* 68 FR 69379 (December 12, 2003).

[46] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India,* 69 FR 67306, 67307 (November 17, 2004).

[47] *See Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman: Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination,* 77 FR 19635 (April 2, 2012).

individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. Al Jazeera is the only respondent in this investigation for which the Department has calculated a company-specific rate that is not zero or *de minimis.* Therefore, for purposes of determining the ''all others''' rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Al Jazeera, 5.59 percent, for the ''all others'' rate, as referenced in the ''Preliminary Determination'' section, above.

Disclosure

The Department intends to disclose to parties the calculations performed in connection with this preliminary determination within five days of the date of publication of this notice. *See* 19 CFR 351.224(b).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On May 18, 2012, petitioners requested that in the event of a negative preliminary determination in this investigation, the Department postpone its final determination by 60 days (135 days after publication of the preliminary determination) from a four-month period to a six-month period. On May 21, 2012, Al Jazeera also requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (135 days after publication of the preliminary determination) and extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period.[48] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting producers/exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly. We are also granting the request to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at less than fair value. If the final determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain steel pipe from Oman before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and 19 CFR 351.309(d)(2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. 19 CFR 351.309(c)(2). Executive summaries should be limited to five pages total, including footnotes.

Interested parties, who wish to comment on the preliminary determination, must file briefs electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time.

In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. *See also* 19 CFR 351.310. Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using IA ACCESS, as noted above. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice. *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. 19 CFR 351.310(c). If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. *See* 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing.

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

Dated: May 23, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (''O.D.'') not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.,* black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.,* American Society for Testing and Materials International (''ASTM''), proprietary, or other) generally

[48] *See* Letter from petitioners (on behalf of certain petitioners) to the Department, dated May 18, 2012, and Letter from Al Jazeera to the Department, dated May 21, 2012.

known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term ''carbon quality'' includes products in which: (a) Iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium;
(xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (''API'') API–5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: Is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.,* polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished scaffolding; [49] (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (*e.g.,* outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

1.315 inch O.D. and 0.035 inch wall thickness (gage 20)
1.315 inch O.D. and 0.047 inch wall thickness (gage 18)
1.315 inch O.D. and 0.055 inch wall thickness (gage 17)
1.315 inch O.D. and 0.065 inch wall thickness (gage 16)
1.315 inch O.D. and 0.072 inch wall thickness (gage 15)
1.315 inch O.D. and 0.083 inch wall thickness (gage 14)
1.315 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.047 inch wall thickness (gage 18)
1.660 inch O.D. and 0.055 inch wall thickness (gage 17)
1.660 inch O.D. and 0.065 inch wall thickness (gage 16)
1.660 inch O.D. and 0.072 inch wall thickness (gage 15)
1.660 inch O.D. and 0.083 inch wall thickness (gage 14)
1.660 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.109 inch wall thickness (gage 12)
1.900 inch O.D. and 0.047 inch wall thickness (gage 18)
1.900 inch O.D. and 0.055 inch wall thickness (gage 17)
1.900 inch O.D. and 0.065 inch wall thickness (gage 16)
1.900 inch O.D. and 0.072 inch wall thickness (gage 15)
1.900 inch O.D. and 0.095 inch wall thickness (gage 13)
1.900 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.047 inch wall thickness (gage 18)
2.375 inch O.D. and 0.055 inch wall thickness (gage 17)
2.375 inch O.D. and 0.065 inch wall thickness (gage 16)
2.375 inch O.D. and 0.072 inch wall thickness (gage 15)
2.375 inch O.D. and 0.095 inch wall thickness (gage 13)
2.375 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.120 inch wall thickness (gage 11)
2.875 inch O.D. and 0.109 inch wall thickness (gage 12)
2.875 inch O.D. and 0.134 inch wall thickness (gage 10)
2.875 inch O.D. and 0.165 inch wall thickness (gage 8)
3.500 inch O.D. and 0.109 inch wall thickness (gage 12)
3.500 inch O.D. and 0.148 inch wall thickness (gage 9)
3.500 inch O.D. and 0.165 inch wall thickness (gage 8)
4.000 inch O.D. and 0.148 inch wall thickness (gage 9)
4.000 inch O.D. and 0.165 inch wall thickness (gage 8)
4.500 inch O.D. and 0.203 inch wall thickness (gage 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States (''HTSUS'') statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. However, the product description, and not the HTSUS classification, is dispositive of whether the merchandise imported into the United States falls within the scope of the investigation.

[FR Doc. 2012–13233 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

[49] Finished scaffolding is defined as component parts of a final, finished scaffolding that enters the United States unassembled as a ''kit.'' A ''kit'' is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–520–805]

Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that circular welded carbon-quality steel pipe (certain steel pipe) from the United Arab Emirates (UAE) is being, or is likely to be, sold in the United States at less than fair value (LTFV) as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to requests from interested parties, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2657 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 26, 2011, the Department received petitions concerning imports of certain steel pipe from India, the Sultanate of Oman (Oman), the UAE, and the Socialist Republic of Vietnam (Vietnam) filed in proper form on behalf of Allied Tube and Conduit, JMC Steel Group, Wheatland Tube Company, and United States Steel Corporation (collectively, petitioners).[1] On November 15, 2011, the Department initiated the antidumping duty investigations on certain steel pipe from India, Oman, the UAE, and Vietnam.[2]

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of the date of signature of the *Initiation Notice*.[3] We received comments from SeAH Steel Vina Corp. (SeAH VINA), a Vietnamese producer, on December 5, 2011, and we received rebuttal comments from petitioners Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube Company on December 14, 2011. After reviewing all comments, we have adopted the ''Scope of Investigation'' section of this notice, below. The Department also set aside a period of time for parties to comment on product characteristics to be used in the antidumping duty questionnaire and indicated that in order to consider such comments, they should be submitted no later than December 9, 2011.[4] On December 9, 2011, we received comments from a UAE producer, Universal Tube and Plastic Industries, Ltd. (UTP), and its U.S. affiliate, Prime Metal Corp. USA (Prime Metal). After reviewing all comments, we have adopted the characteristics and hierarchy as explained in the ''Product Comparisons'' section of this notice, below.

The Department also stated in the *Initiation Notice* that it intended to select mandatory respondents for this investigation based on U.S. Customs and Border Protection (CBP) data.[5] On November 22, 2011, the Department released U.S. import data obtained from CBP to all interested parties and invited parties to submit comments on the potential respondent selection by November 29, 2011.[6] No parties filed comments on these CBP data. On December 16, 2011, we selected UTP and Abu Dhabi Metal Pipes & Profiles Industries Complex LLC (ADPICO) as the mandatory respondents in this investigation.[7]

On December 16, 2011, the International Trade Commission (ITC) published its affirmative preliminary determination that there is a reasonable indication that imports of certain steel pipe from India, Oman, the UAE, and Vietnam are materially injuring the U.S. industry, and the ITC notified the Department of its finding.[8]

On December 20, 2011, the Department issued its antidumping duty questionnaire to UTP and ADPICO. The events which have occurred with respect to each respondent since issuance of the antidumping duty questionnaire are discussed separately for each respondent below.

On February 29, 2012, petitioners Allied Tube and Conduit and JMC Steel Group requested that the Department postpone its preliminary determination by 50 days. In accordance with section 733(c)(1)(A) of the Act, we postponed our preliminary determination by 50 days.[9]

On May 16, 2012, petitioners Allied Tube and Conduit and JMC Steel Group submitted comments with respect to both respondents for consideration in the preliminary determination.

UTP/Universal

UTP submitted its response to section A of the Department's antidumping duty questionnaire on January 24, 2012. In its response, UTP stated that it was reporting its own sales of the foreign like product as well as sales of merchandise that was produced during the period of investigation (POI) by two other affiliated manufacturers, KHK Scaffolding & Formwork LLC (KHK) and Universal Tube and Pipe Industries LLC (DIP). (Hereinafter, we refer to these three affiliated producers collectively as ''Universal.'') *See* Universal's January 24, 2012, section A questionnaire response (AQR) at 3. With respect to its U.S. sales, Universal reported that the overwhelming majority of its U.S. sales during the POI were shipped directly from the UAE to the United States. Universal explained that the remaining quantity consisted of sales from Prime Metal's inventory, and requested that the Department excuse Universal from reporting these sales not only because of the small quantity but also because this merchandise is co-mingled with material purchased from other suppliers located in the United States. *See* Universal's AQR at 3–4, footnote 1.

On January 30, 2012, petitioners Allied Tube and Conduit and JMC Steel Group filed comments on Universal's section A questionnaire response.

On February 21, 2012, Universal submitted its response to section B (*i.e.,* the section covering comparison market sales) and section C (*i.e.,* the section covering U.S. sales) of the Department's antidumping questionnaire. In its section B response, in addition to reporting the sales of the three affiliated manufacturers, Universal also reported the downstream sales made by three home market affiliated distributors.

On February 22, 2012, petitioners Allied Tube and Conduit and JMC Steel Group filed an allegation of sales below cost with respect to Universal. On March 13, 2012, the Department initiated a cost investigation with respect to Universal.[10] On March 14, we notified Universal of our decision to initiate a cost investigation and requested that Universal provide a response to section D of the Department's antidumping questionnaire (*i.e.,* the section covering the cost of production (COP) and constructed value (CV)).

On February 24, 2012, the Department issued a supplemental questionnaire concerning Universal's section A questionnaire response. In that supplemental questionnaire, we informed Universal that we were preliminarily not requiring it to report its U.S. sales from inventory, but that we might require Universal to report these sales in the future. Universal submitted its response to this

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[1] *See* Circular Welded Carbon-Quality Steel Pipe From India, Oman, the UAE, and Vietnam: Antidumping and Countervailing Duty Petitions, filed on October 26, 2011.

[2] *See Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations,* 76 FR 72164 (November 22, 2011) (*Initiation Notice*).

[3] *See Initiation Notice,* 76 FR at 72164.

[4] *See Initiation Notice,* 76 FR at 72164–5.

[5] *See Initiation Notice,* 76 FR at 72168.

[6] *See* Letter from Robert James, Program Manager, to All Interested Parties, dated November 22, 2011.

[7] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Richard O. Weible, Director, Office 7, ''Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Respondent Selection Memorandum,'' dated December 16, 2011 (Respondent Selection Memorandum).

[8] *See Circular Welded Carbon-Quality Steel Pipe From India, Oman, the United Arab Emirates, and Vietnam,* Investigation Nos. 701–TA–482–485 and 731–TA–1191–1194 (Preliminary), 76 FR 78313 (December 16, 2011).

[9] *See Circular Welded Carbon-Quality Steel Pipe From India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 77 FR 15718 (March 16, 2012).

[10] *See* Memorandum to Richard Weible, Director, Office 7, from The Team, ''The Petitioners' Allegation of Sales Below the Cost of Production for Universal Tube and Plastic Industries, Ltd.,'' dated March 13, 2012 (Universal Cost Initiation Memorandum).

supplemental questionnaire on March 20, 2012.

On March 20, 2012, Universal filed a letter with the Department in which it requested that it be permitted to report home market sales data for only the three affiliated manufacturers or, alternatively, for the three manufacturers and just one of the three affiliated distributors. On March 28, 2012, the Department issued a supplemental questionnaire covering sections B and C. In the cover letter of that supplemental questionnaire, we informed Universal that it would not be permitted to limit its reporting of home market sales. On April 25, 2012, Universal responded to the Department's supplemental questionnaire for sections B and C.

On April 4, 2012, petitioner Wheatland Tube filed an allegation of targeted dumping by Universal. *See* the ''Allegation of Targeted Dumping'' section below.

On April 23, 2012, Universal filed its section D questionnaire response. On May 15, 2012, the Department issued a supplemental questionnaire for section D. Universal's response to this supplemental questionnaire is currently due on May 29, 2012.

On April 25, 2012, the Department issued a second supplemental questionnaire for section A. Universal submitted its response on May 4, 2012, and provided additional information on May 10 and 16, 2012.

ADPICO

ADPICO filed its response to section A of the Department's antidumping duty questionnaire on February 7, 2012.[11]

ADPICO's response to sections B and C of the Department's antidumping questionnaire was originally due on January 26, 2012. In response to timely requests for extensions, the Department extended the deadline until February 9, 2012, and again until February 16, 2012. However, ADPICO did not file a response to sections B and C of the questionnaire on February 16, 2012. On February 17, 2012, ADPICO requested three additional days to submit its response. Although ADPICO did not file this request in a timely manner, the Department stated in a letter dated February 17, 2012, that ''due to the extraordinary circumstances cited'' by ADPICO,[12] the Department was granting ADPICO an extension to file its response to sections B and C until February 21, 2012. In that letter, the Department informed ADPICO that it would not consider any additional requests for an extension to submit a response to sections B and C of the questionnaire. Further, the Department stated in its letter that ADPICO must file, in a timely manner, any future questionnaire or supplemental questionnaire responses or any requests for an extension to file such responses.

On February 21, 2012, ADPICO submitted a response, albeit a significantly deficient one, to sections B and C of the Department's antidumping questionnaire. ADPICO's narrative response to sections B and C totaled only one page. Although ADPICO did not submit a U.S. sales database in the requested format or worksheets showing how it calculated expenses incurred on its U.S. sales, it did provide spreadsheets containing certain U.S. sales information, such as customer names, invoice numbers, sales quantities and values, and amounts corresponding to a few expenses. However, ADPICO did not supply any such information with respect to its comparison market sales. Rather, the only information ADPICO provided regarding its comparison market sales was a listing of the total quantity and value of sales to each customer.[13] On February 22, 2012, petitioners Allied Tube and Conduit and the JMC Steel Group filed a letter requesting that the Department stay the deadline for making a sales below cost allegation with respect to ADPICO, noting that ADPICO's February 21, 2012, response lacked a comparison market sales database. On March 2, 2012, the Department issued a memorandum stating it would stay the deadline for making a sales below cost allegation with respect to ADPICO and that the deadline would be tied to ADPICO's submission of usable data.

On March 5, 2012, the Department issued a supplemental questionnaire to ADPICO for sections A through C. In the cover letter to this supplemental questionnaire, the Department informed ADPICO that it must submit its section B database, which was missing entirely from its February 21, 2012, filing, by March 12, 2012, and that the remainder of its supplemental questionnaire response was due on March 19, 2012. ADPICO did not submit its section B database by the established deadline of March 12, 2012. On March 19, 2012, ADPICO requested an extension to respond to the entire supplemental questionnaire. ADPICO filed a supplemental questionnaire response on March 20 and 21, 2012. On March 30, 2012, the Department issued a letter stating that because ADPICO did not submit its section B database by the established deadline or request an extension to submit that portion of its response in a timely manner, ADPICO's March 20 and 21, 2012, submissions were untimely and, therefore, the Department was rejecting ADPICO's March 20 and 21, 2012, submissions in their entirety.

On April 20, 2012, ADPICO filed a letter requesting that the Department reconsider its decision with respect to ADPICO's March 20 and 21, 2012, submissions. On May 17, 2012, ADPICO submitted a letter in response to the pre-preliminary comments filed by petitioners Allied Tube and Conduit and JMC Steel Group on May 16, 2012.

Period of Investigation

The POI is October 1, 2010, through September 30, 2011. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, October 2011. *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The products covered by this investigation are certain steel pipe from the UAE. For a full description of the scope of this investigation as set forth in the *Initiation Notice, see* the ''Scope of the Investigation'' in Appendix I of this notice.

Scope Comments

As noted above, on December 5, 2011, SeAH VINA, a mandatory respondent in the concurrent antidumping and countervailing duty investigations concerning certain steel pipe from Vietnam, filed comments arguing that the treatment of double and triple stenciled pipe in the scope of these investigations differs from previous treatment of these products under other orders on circular welded pipe. Specifically, SeAH VINA claims that the Brazilian, Korean, and Mexican orders on these products exclude ''Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil and gas

[11] ADPICO filed earlier versions of its section A questionnaire response on January 31, 2012, and February 5, 2012, but due to issues such as improper bracketing and a missing or incomplete public version, the Department rejected these versions. *See* Memoranda to The File from Deborah Scott, International Trade Compliance Analyst, ''Circular Welded Carbon Quality Steel Pipe From the United Arab Emirates,'' dated February 3, 2012, and February 8, 2012, respectively. In addition, on February 9, 2012, ADPICO submitted another version of its section A questionnaire response with altered bracketing and certain information deleted.

[12] The lead company official explained that he had been outside the UAE undergoing several surgeries for cancer.

[13] This listing also contained total sales quantities and values for ADPICO's U.S. customers.

pipelines * * *'' [14] According to SeAH VINA: (i) If the term ''class or kind of merchandise'' has meaning, it cannot have a different meaning when applied to the same products in two different cases; and (ii) the distinction between standard and line pipe reflected in the Brazil, Korea and Mexico orders derives from customs classifications administered by CBP and, thus, is more administrable.

On December 14, 2011, Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube (collectively, Certain Petitioners), responded to SeAH VINA's comments stating that the scope as it appeared in the *Initiation Notice* reflected Petitioners' intended coverage. Certain Petitioners contend that pipe that is multi-stenciled to both line pipe and standard pipe specifications and meets the physical characteristics listed in the scope (*i.e.,* is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.,* polyester coated) surface finish; or has a threaded and/or coupled end finish) is ordinarily used in standard pipe applications. Certain Petitioners state that, in recent years, the Department has rejected end-use scope classifications, preferring instead to rely on physical characteristics to define coverage, and the scope of these investigations has been written accordingly. Therefore, Certain Petitioners ask the Department to reject SeAH VINA's proposed scope modification.

We agree with Certain Petitioners that the Department seeks to define the scopes of its proceedings based on the physical characteristics of the merchandise.[15] Moreover, we disagree with SeAH VINA's contention that once a ''class or kind of merchandise'' has been established that the same scope description must apply across all proceedings involving the product. For example, as the Department has gained experience in administering antidumping duty and countervailing duty orders, it has shifted away from end use classifications to scopes defined by the physical characteristics.[16] Thus, proceedings initiated on a given product many years ago may have end use classifications while more recent proceedings on the product would not.[17] Finally, Certain Petitioners have indicated the domestic industry's intent to include multi-stenciled products that otherwise meet the physical characteristics set out in the scope. Therefore, the Department is not adopting SeAH VINA's proposed modification of the scope.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters or producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. As explained in the Respondent Selection Memorandum, the Department determined that it was appropriate to limit the number of producers or exporters examined in this investigation, and therefore we selected the two respondents which accounted for the largest volume of imports of subject merchandise during the POI, ADPICO and Universal.

Use of Facts Otherwise Available

For the reasons discussed below, we determine that the use of facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to ADPICO.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall use, subject to section 782(d) of the Act, the facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that where the Department determines a response to a request for information does not comply with the request, the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; (5) the information can be used without undue difficulties.

After multiple requests by ADPICO for extensions to submit its response to sections B and C of the Department's antidumping questionnaire, the Department stated the following in a letter to ADPICO dated February 17, 2012:

> Please be aware that any future questionnaire or supplemental questionnaire responses filed with the Department, as well as any requests for an extension to file any such responses, must be submitted in a timely manner. The Department's antidumping investigations are governed by statutory deadlines which are mandatory, not optional, in nature, and we must remind you that untimely or otherwise deficient filings hinder the progress of this investigation.

We also noted that ''future untimely filings may result in the rejection of such responses in their entirety, and may warrant the use of partial or total facts available, pursuant to section 776(a) of the {Act} * * *, which may include adverse inferences pursuant to section 776(b) of the Act.''

ADPICO filed a response to sections B and C of the questionnaire on February 21, 2012, which was the deadline established in the Department's February 17, 2012, letter, but this response, even after nearly one month of extensions from the original deadline, contained myriad significant deficiencies. Sections B and C of the Department's antidumping questionnaire request that respondents provide databases containing detailed

[14] *See* SeAH Vina comments dated December 5, 2011; *see also Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea, and Taiwan; and Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Order,* 76 FR 66899, 66900 (October 28, 2011).

[15] *See Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* 73 FR 31970 (June 5, 2008), and accompanying Issues and Decision Memorandum at Comment 1.

[16] *Id.*

[17] *Compare, e.g., Countervailing Duty Order: Oil Country Tubular Goods from Canada,* 51 FR 21783 (June 16, 1986) (describing subject merchandise as being ''intended for use in drilling for oil and gas'') *with Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 3203 (January 20, 2010) (describing the subject merchandise in terms of physical characteristics without regard to use or intended use).

information about their comparison (or third-country) market and U.S. sales, including information such as product characteristics, terms of sale, customer names, invoice numbers and dates, shipment and payment dates, quantities, gross unit prices, and the expenses incurred in making such sales. In addition, sections B and C of the Department's antidumping questionnaire ask that respondents discuss the details of their sales in narrative format and submit worksheets showing the calculation of the sales expenses reported in their databases. In this case, ADPICO's narrative response for sections B and C totaled only one page; ADPICO did not provide a database detailing its comparison market sales; it did not submit its U.S. sales database in the format requested, and some of the requested data were missing; and ADPICO did not include any worksheets showing how it calculated the expenses incurred in making its comparison market and U.S. sales. In this state, ADPICO's responses could not be relied upon to calculate a dumping margin. Given the substantial deficiencies in ADPICO's response, particularly the lack of a home market sales database, petitioners Allied Tube and Conduit and the JMC Steel Group filed a letter on February 22, 2012, requesting that the Department stay the deadline for making a sales below cost allegation with respect to ADPICO. On March 2, 2012, the Department issued a memorandum stating that the deadline for making a sales below cost allegation would be tied to ADPICO's submission of usable data.

On March 5, 2012, the Department issued a supplemental questionnaire to ADPICO to provide it an opportunity to remedy the significant deficiencies in its section B questionnaire response, to correct deficiencies, and to provide additional information regarding its responses to sections A and C of the original questionnaire. With respect to sections B and C, the Department's March 5, 2012, supplemental questionnaire essentially asked ADPICO to refer back to the original questionnaire and respond fully to each section therein, while providing ADPICO with additional guidance on how to respond properly. Because the Department had not yet received a comparison market database or even a narrative response to section B of the questionnaire at that point in the investigation, we established a deadline for ADPICO to submit its section B database that was earlier than the deadline for the rest of ADPICO's response to the March 5, 2012, supplemental questionnaire. Specifically, the Department indicated that the due date for ADPICO's section B database was March 12, 2012, and the deadline for ADPICO to submit the remainder of its supplemental questionnaire response was March 19, 2012. The Department also noted in the cover letter to its March 5, 2012, supplemental questionnaire:

> The Department must conduct this investigation in accordance with statutory and regulatory deadlines. If you are unable to respond completely to every question in the attached supplemental questionnaire by the established deadline, or are unable to provide all requested supporting documentation by the same date, you must notify the official in charge and submit a written request for an extension of the deadline for all or part of the supplemental questionnaire response. * * * An extension request submitted without a proper certification for any factual information contained therein will be considered improperly filed and, as with any other improperly filed document, will not be accepted. Any extension granted in response to your request will be in writing; otherwise, the original deadline will apply.

Furthermore, we stated:

> If the Department does not receive either the requested information or a written extension request before 5 p.m. ET on the established deadline, we may conclude that your company has decided not to cooperate in this proceeding. The Department will not accept any requested information submitted after the deadline. As required by section 351.302(d) of our regulations, we will reject such submissions as untimely. Therefore, failure to properly request extensions for all or part of a questionnaire response may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

ADPICO did not submit its section B database by the established deadline of March 12, 2012. On March 19, 2012, ADPICO requested an extension until March 20, 2012 to respond to the entire supplemental questionnaire. In its letter, ADPICO stated that it had been experiencing problems with the Department's electronic filing system, IA ACCESS. However, the Department considered this explanation inadequate as by that point, ADPICO's home market database was already one week overdue, and ADPICO had not attempted to contact the Department on or around the deadline of March 12, 2012, to address the alleged technical difficulties. As a result, ADPICO's request on March 19, 2012, for additional time to submit its home market sales database, a significant portion of the information needed to conduct our analysis, was untimely. The Department did not extend the deadline for any portion of ADPICO's supplemental questionnaire. ADPICO filed a supplemental questionnaire response on March 20 and 21, 2012.

ADPICO did not submit its section B database by the established deadline or request an extension to submit that portion of its response in a timely manner. Accordingly, the Department issued a letter on March 30, 2012, stating that ADPICO's March 20 and 21, 2012, submissions were untimely and, therefore, the Department was rejecting ADPICO's March 20 and 21, 2012, submissions in their entirety and deleting them from the record. The Department further stated it would not consider the information contained in those submissions in the preliminary determination.

In this case, ADPICO failed to provide requested information by the established deadline within the meaning of section 776(a)(2)(B) of the Act and significantly impeded the proceeding within the meaning of section 776(a)(2)(C) of the Act. As noted above, we provided ADPICO with an opportunity to remedy its deficient responses, pursuant to section 782(d) of the Act, but ADPICO failed to do so. Because ADPICO did not provide the requested information by the established deadline, its submissions do not satisfy the criteria of section 782(e) of the Act. Further, as discussed below, ADPICO did not act to the best of its ability in providing the requested information, and therefore did not satisfy the criteria of section 782(e) of the Act for this reason as well. Accordingly, pursuant to section 776(a)(2) of the Act, we are relying upon facts otherwise available for ADPICO's antidumping duty margin.

B. Application of Adverse Inferences for Facts Available

Section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting the facts otherwise available.[18] In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. 103–316, Vol. 1, 103d Cong. (1994) (SAA) explains that the Department may employ an adverse

[18] *See Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India,* 70 FR 54023, 54025–26 (September 13, 2005), and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil,* 67 FR 55792, 55794–96 (August 30, 2002).

inference ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' [19] Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.[20] It is the Department's practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.[21]

Despite granting ADPICO numerous extensions of time to submit information critical to the antidumping analysis and providing ADPICO with notice of the consequences of the failure to respond to our antidumping questionnaires or to request extensions in a timely manner, ADPICO failed to provide a timely response to a critical portion of the Department's March 5, 2012, supplemental questionnaire, *i.e.,* its home market sales database, by the established deadline of March 12, 2012.[22] Further, having given ADPICO an opportunity to correct the other significant deficiencies identified in its original responses, ADPICO failed to do so by the deadline of March 19, 2012, requesting yet another extension, which we did not grant. These failures indicate that ADPICO did not ''put forth its maximum effort to provide Commerce with full and complete answers to all inquiries in {this} investigation.'' [23] Moreover, ''{i}t is {respondent's} burden to create an accurate record during Commerce's investigation.'' [24] ADPICO's repeated failure to submit information in a proper and timely manner has precluded the Department from performing the necessary analysis and verification of ADPICO's questionnaire responses required by section 782(i)(1) of the Act and within the time required to complete an investigation.

For the reasons discussed above, the Department has preliminarily determined that ADPICO has failed to cooperate to the best of its ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted, pursuant to section 776(b) of the Act.[25]

C. Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record.[26] In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated. Normally, it is the Department's practice to use the highest rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the necessary information.[27] The rates in the petition range from 6.23 percent to 11.71 percent.[28] We have selected the highest petition rate of 11.71 percent as AFA for ADPICO. This rate achieves the purpose of applying an adverse inference, *i.e.,* it is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.[29]

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See SAA* at 870. The SAA provides that to ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* 19 CFR 351.308(d); *see also* the SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.[30]

The AFA rate the Department has used for ADPICO is from the petition. During our pre-initiation analysis, we examined evidence supporting the calculations in the petition and the supplemental information provided by petitioners to determine the probative value of the margins alleged in the petition. During our pre-initiation analysis, we also examined the information used as the basis of the export price (EP) and normal value (NV) in the petition to derive the alleged margins, thereby corroborating key elements of the EP and NV calculations and establishing the basis for the estimated margins identified in the

[19] *See* SAA at 870; *see also, e.g., Certain Polyester Staple Fiber from Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review,* 72 FR 69663 (December 10, 2007).

[20] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan,* 65 FR 42985 (July 12, 2000); Antidumping Duties, Countervailing Duties, 62 FR 27296, 27340 (May 19, 1997); and *Nippon Steel Corp.* v. *United States,* 337 F.3d 1373, 1382–83 (Fed. Cir. 2003) (*Nippon Steel*) (''While intentional conduct, such as deliberate concealment or inaccurate reporting, surely evinces a failure to cooperate, the statute does not contain an intent element.'')

[21] *See Essar Steel Ltd.* v. *United States,* 2012 U.S. App. LEXIS 8621 at *18 (Fed. Cir. Apr. 27, 2012) (*Essar*). (''Because Commerce lacks subpoena power, Commerce's ability to apply adverse facts is an important one. The purpose of the adverse facts statute is 'to provide respondents with an incentive to cooperate' with Commerce's investigation, not to impose punitive damages.'')

[22] *See Essar* at *19 (''Without the ability to enforce full compliance with its questions, Commerce runs the risk of gamesmanship and lack of finality in its investigations.'').

[23] *See Nippon Steel,* 337 F.3d at 1382 (While the '' 'best of its ability' '' ''standard does not require perfection and recognizes that mistakes sometimes occur, it does not condone inattentiveness, carelessness, or inadequate recordkeeping.'').

[24] *See Essar* at *22 (citing *Zenith Elecs. Corp.* v. *United States,* 988 F.2d 1573, 1583 (Fed. Cir. 1993)).

[25] *See, e.g., Notice of Preliminary Determinations of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From Poland, Indonesia, and Ukraine,* 66 FR 8343, 8346 (January 30, 2001) *(unchanged in Notice of Final Determinations of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from Indonesia, Poland and Ukraine,* 66 FR 18752, 18753 (April 11, 2001)) and *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan,* 65 FR 42985, 42986 (July 12, 2000) (where the Department applied total adverse facts available (AFA) where respondents failed to respond to questionnaires in a timely manner).

[26] *See also* 19 CFR 351.308(c) and the SAA at 868–870.

[27] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland,* 69 FR 77216 (December 27, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland,* 70 FR 28279 (May 17, 2005)).

[28] *See Initiation Notice,* 76 FR at 72168.

[29] *See Gallant Ocean (Thailand) Co.* v. *United States,* 602 F.3d 1319, 1323 (Fed. Cir. 2010).

[30] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825 (March 13, 1997).

Initiation Notice.[31] Petitioners' methodology for calculating EP and NV in the petition is discussed in the *Initiation Notice.*[32] These calculations appear reasonable and no information on the record provides a basis for challenging the appropriateness of those estimated margins. Therefore, because we confirmed the accuracy and validity of the information underlying the calculation of margins in the petition by examining source documents as well as publicly available information, we preliminarily determine that the margins in the petition and in the *Initiation Notice* are reliable for the purposes of this investigation.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin.[33] The rates in the petition reflect commercial practices of the steel pipe industry and, as such, are relevant to ADPICO. Commercial behavior inherent in the industry is important in determining the relevance of the selected AFA rate to the uncooperative respondent by virtue of it belonging to the same industry.[34] Such consideration typically encompasses the commercial behavior of other respondents under investigation and the selected AFA rate is gauged against the margins we calculate for those respondents. Therefore, we compared the transaction-specific margins we calculated for Universal for the POI to the petition rate of 11.71 percent, selected as AFA in this investigation, in order to determine whether the rate of 11.71 percent is probative. We found that a number of transaction-specific margins we calculated for Universal in this investigation were higher than or within the range of the 11.71 percent margin alleged in the petition. Accordingly, the AFA rate is relevant as applied to ADPICO for this investigation because it falls within the range of transaction-specific margins we calculated for Universal in this investigation. A similar corroboration methodology has been upheld by the court.[35] Further, it is consistent with our past practice.[36]

Accordingly, by using information that was corroborated in the pre-initiation stage of this investigation and preliminarily determining it to be reliable and relevant for the uncooperative respondent in this investigation, we have corroborated the AFA rate of 11.71 percent ''to the extent practicable'' as provided in section 776(c) of the Act. *See also* 19 CFR 351.308(d). Therefore, for ADPICO we have used, as AFA, the margin in the petition of 11.71 percent, as set forth in the *Initiation Notice.*

Affiliation and Collapsing—Universal

Section 771(33) of the Act provides that:

> The following persons shall be considered to be 'affiliated' or 'affiliated persons':
> (A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.
> (B) Any officer or director of an organization and such organization.
> (C) Partners.
> (D) Employer and employee.
> (E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.
> (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.
> (G) Any person who controls any other person and such other person.

Additionally, section 771(33) of the Act stipulates that: ''For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.''

In its questionnaire responses, Universal indicated it was reporting the sales of three producers, UTP, KHK, and DIP, since all three companies are affiliated and manufacture subject merchandise. *See, e.g.,* Universal's AQR at 2. Based on the record evidence, we found that UTP, KHK, and DIP are affiliated pursuant to section 771(33) of the Act by virtue of their ownership through Taurani Holdings Limited. Because our analysis of affiliation involves the use of business proprietary information, *see* Memorandum to the File, through Robert James, Program Manager, from Deborah Scott, International Trade Analyst, ''Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates,'' dated May 23, 2012 (Universal Preliminary Analysis Memorandum) for more information.

Section 351.401(f)(1) of the Department's regulations outlines the criteria for collapsing (*i.e.,* treating as a single entity) affiliated producers for purposes of calculating a dumping margin. The regulations state that we will treat two or more affiliated producers as a single entity where (1) those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and (2) we conclude that there is a significant potential for the manipulation of price or production. In identifying a significant potential for the manipulation of price or production, the Department may consider the following factors: (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. *See* 19 CFR 351.401(f)(2). Based on information on the record, we find that, as UTP, KHK, and DIP each produced the merchandise under consideration during the POI, they had production facilities for similar or identical merchandise that would not require substantial retooling of any of the three facilities in order to restructure their manufacturing priorities. We also find that there was a significant potential for the manipulation of price or production among the three companies based on their common ownership and their intertwined operations. Accordingly, the Department has preliminarily determined that it is appropriate to treat UTP, KHK, and DIP as a single entity, pursuant to 19 CFR 351.401(f)(1) and (2). For a more detailed discussion of our collapsing analysis, *see* Universal Preliminary Analysis Memorandum.

Allegation of Targeted Dumping

Section 777A(d)(1)(B) of the Act allows the Department to employ an alternative dumping margin calculation

[31] *See Initiation Notice,* 76 FR at 72166–68.

[32] *Id.*

[33] *See Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812, 6814 (February 22, 1996) (the Department disregarded the highest dumping margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin).

[34] *See, e.g., Stainless Steel Bar from Spain: Final Results of Antidumping Duty Administrative Review,* 72 FR 42395 (August 2, 2007), and accompanying Issues and Decision Memorandum at Comment 6.

[35] *See PAM, S.p.A.* v. *United States,* 582 F.3d 1336, 1340 (Fed. Cir. 2009).

[36] *See Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 75 FR 41808, 41811 (July 19, 2010).

methodology in an AD investigation under the following circumstances: (1) There is a pattern of EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or periods of time; and (2) the Department explains why such differences cannot be taken into account using the standard average-to-average or transaction-to-transaction methodology.

On April 4, 2012, petitioner Wheatland Tube submitted a timely allegation of targeted dumping with respect to Universal, arguing the Department should apply the average-to-transaction methodology to all reported U.S. sales in calculating Universal's dumping margin. In its allegation, petitioner asserted there are patterns of U.S. prices for comparable merchandise that differ significantly among customers, time periods, and regions. The petitioner relied on the Department's current version of the targeted dumping test first introduced in *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value* (*Nails*) and recently clarified in *Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value (Wood Flooring).*[37]

A. Targeted Dumping Test

We conducted customer, time-period, and regional analyses of targeted dumping for Universal using the methodology we adopted in *Nails* and most recently articulated in *Wood Flooring.* The methodology we employed involves a two-stage test; the first stage addresses the pattern requirement and the second stage addresses the significant-difference requirement.[38] In this test, we made all price comparisons on the basis of identical merchandise (*i.e.,* by control number or CONNUM). The test procedures are the same for the customer, time-period, and regional allegations of targeted dumping. We based all of our targeted dumping calculations on the U.S. net price, which we determined for Universal's U.S. sales in our standard margin calculations. For further discussion of the test and the results, *see* Universal Preliminary Analysis Memorandum. As a result of our analysis, we preliminarily determine that there is a pattern of U.S. prices for comparable merchandise that differs significantly among certain customers, time periods, and regions for Universal in accordance with section 777A(d)(1)(B)(i) of the Act and our current practice as discussed in *Nails* and *Wood Flooring.*

B. Price Comparison Method

Section 777A(d)(1)(B)(ii) of the Act states that the Department may compare the weighted average of the NV to EPs or CEPs of individual transactions for comparable merchandise if the Department explains why differences in the patterns of EPs and CEPs cannot be taken into account using the average-to-average methodology. As described above, we preliminarily determine that, with respect to sales by Universal, for certain customers, time periods, and regions there was a pattern of prices that differed significantly. For Universal, we find that these differences cannot be taken into account using the standard average-to-average methodology because the average-to-average methodology conceals differences in the patterns of prices between the targeted and non-targeted groups by averaging low-priced sales to the targeted group with high-priced sales to the non-targeted group. Therefore, the Department preliminarily determines, pursuant to 777A(d)(1)(B)(ii) of the Act, that the standard average-to-average methodology does not take into account Universal's price differences because the alternative average-to-transaction methodology yields a material difference in the margin. Accordingly, for this preliminary determination we have applied the alternative average-to-transaction methodology to all of Universal's reported U.S. sales to calculate the dumping margin for Universal.[39] *See* Universal Preliminary Analysis Memorandum for further discussion.

Product Comparisons

The Department identified five criteria for matching U.S. sales of subject merchandise to normal value (specification/grade, diameter, wall thickness, coating, and end finish) and, as noted above, gave parties to this and the concurrent AD investigations an opportunity to comment within a certain deadline. The only timely comments submitted were from UTP and its U.S. affiliate, Prime Metal. UTP and Prime Metal requested that the placement of the coating characteristic in the model match hierarchy be adjusted from that proposed by the Department, so that it would be the highest in the hierarchy. UTP and Prime Metal argued that the coating characteristic should be highest in the hierarchy of product characteristics because significant cost and price differences are associated with whether or not pipes are coated with zinc (galvanized), and because of differences in end uses between galvanized pipes and pipes that are not galvanized.

None of the interested parties objected to the inclusion of the coating product characteristic in the hierarchy, and none of the interested parties in the four concurrent certain steel pipe antidumping investigations (India, Oman, UAE, and Vietnam) other than UTP and Prime Metal suggested that the placement of the coating product characteristic in the model match hierarchy should be changed from that originally proposed by the Department.

The Department is not modifying the model match hierarchy that it originally proposed to incorporate the suggestion of UTP and Prime Metal. The goal of the product characteristic hierarchy is to identify the best possible matches with respect to the characteristics of the merchandise. While variations in cost may suggest the existence of variation in product characteristics, such variations do not constitute differences in products in and of themselves. Furthermore, the magnitude of variations in cost may differ from company to company, and even for a given company over time, and therefore do not, in and of themselves, provide a reliable basis for identifying the relative importance of different product characteristics. The Department has noted that for defining products and creating a model match hierarchy, ''{t}he physical characteristics are used to distinguish the differences among products across the industry,'' that ''{c}ost is not the primary factor for establishing these characteristics,'' and, in short, ''{c}ost variations are not the determining factor in assigning product characteristics for model-matching purposes.'' [40]

[37] *See Nails,* 73 FR 33985 (June 16, 2008), and accompanying Issues and Decision Memorandum (Nails Decision Memorandum) at Comments 1–9 and *Wood Flooring,* 76 FR 64318 (October 18, 2011), and accompanying Issues and Decision Memorandum (Wood Flooring Decision Memorandum) at Comment 4, respectively. *See also Proposed Methodology for Identifying and Analyzing Targeted Dumping in Antidumping Investigations; Request for Comment,* 73 FR 26371 (May 9, 2008).

[38] *See* Nails Decision Memorandum at Comments 3 and 6 and Wood Flooring Decision Memorandum at Comment 4; *see also* section 777A(d)(1)(B)(i) of the Act.

[39] *See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 75 FR 24885, 24888 (May 6, 2010) and *Polyethylene Retail Carrier Bags From Indonesia: Final Determination of Sales at Less Than Fair Value,* 75 FR 16431 (April 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

[40] *See Stainless Steel Wire Rod from Sweden: Final Results of Antidumping Duty Administrative Review,* 73 FR 12950 (March 11, 2008), and accompanying Issues and Decision Memorandum at

UTP and Prime Metal also refer to price and end-use differences regarding galvanized versus non-galvanized pipe, but the Department's proposed hierarchy for the certain steel pipe antidumping duty investigations did include coating as a characteristic because whether or not the product is coated (*e.g.,* galvanized) is important enough to distinguish products from one another. However, differences in other product characteristics also influence potential end uses. Neither UTP nor Prime Metal demonstrated why the coating product characteristic should be considered the most important of all when defining models and for comparison purposes and, as noted above, no other interested parties argued for such a change in a timely manner.

Therefore, as noted above, the Department is not modifying the hierarchy it proposed at the outset of the AD investigations and included in the questionnaires it issued to respondents in these investigations. In accordance with section 771(16) of the Act, all products produced by Universal covered by the description in the ''Scope of the Investigation'' in Appendix I of this notice, below, and sold in the UAE during the POI are considered to be the foreign like product for purposes of determining appropriate product comparisons to U.S. sales. We have relied on five criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: (1) Pipe specification and grade; (2) outside diameter; (3) wall thickness; (4) coating; and (5) end finish. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the next most similar foreign like product on the basis of the characteristics listed above which were made in the ordinary course of trade. *See* Universal Preliminary Analysis Memorandum for additional information.

Date of Sale

The regulation at 19 CFR 351.401(i) states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.[41]

For its home market sales, Universal indicated that the sales invoice is normally issued at the same time or a few days after shipment, and it reported the earlier of shipment date or invoice date as the date of sale. *See* Universal's March 20, 2012, section A supplemental questionnaire response (ASQR) at 11 and its February 21, 2012, section B questionnaire response (BQR) at 15–16. For its U.S. sales, Universal stated that its sales are shipped directly from Universal to the unaffiliated U.S. customer, and therefore it reported the bill of lading date, which it characterized as the shipment date, as the date of sale since shipment occurs before issuance of the invoice from Prime Metal to the U.S. customer. *See* Universal's February 21, 2012, section C questionnaire response (CQR) at 11–12. For these preliminary results, we have used the date of sale as reported by Universal, *i.e.,* shipment date where it precedes the invoice date, and invoice date in the remaining instances, in accordance with our practice.

Fair Value Comparisons

To determine whether Universal made sales of certain steel pipe to the United States at LTFV, we compared the constructed export price (CEP) to NV and as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(1)(B) of the Act, we compared transaction-specific CEPs to POI weighted-average NVs.

Constructed Export Price

As noted above in the ''Background'' section of this notice, Universal reported that all but a minor quantity of its U.S. sales during the POI were shipped directly from the UAE to the U.S. customer. Universal described these sales as ''direct CEP shipments,'' whereby its U.S. affiliate, Prime Metals, made the sale, and then Universal manufactured the pipe and shipped it directly to the United States. *See* Universal's CQR at 2. Universal requested that the Department excuse it from reporting the remaining quantity of its U.S. sales, which were made from Prime Metal's inventory, claiming that the small quantity coupled with the merchandise being co-mingled with merchandise purchased from other U.S. suppliers would make it difficult to report these sales. *See* Universal's AQR at 3–4, footnote 1. In our February 24, 2012, section A supplemental questionnaire, we informed Universal that we were preliminarily not requiring it to report its U.S. sales through inventory.

For the price to the United States, we used CEP, in accordance with section 772(b) of the Act. We calculated CEP for those sales where a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. *See* section 772(b) of the Act. We based CEP on the packed prices charged to the first unaffiliated customer in the United States and the applicable terms of sale.

In accordance with section 772(b) of the Act, we calculated CEP where the record established that sales made by Universal were made in the United States after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

In accordance with section 772(c)(2)(A) of the Act, and where appropriate, we made deductions from the starting price for certain billing adjustments and early payment discounts. We made further deductions to price for certain movement expenses (offset by reported freight revenue), where appropriate, for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. inland freight, certain other transportation expenses, and U.S. brokerage expenses, pursuant to section 772(c)(2)(A) of the Act. In accordance with our practice, we capped Universal's freight revenue at the

Comment 1. Also, the Department's '' * * * selection of model match characteristics {is based} on unique measurable physical characteristics that the product can possess * * *.'' and '' * * * differences in price or cost, standing alone, are not sufficient to warrant inclusion in the Department's model-match of characteristics which a respondent claims to be the cause of such differences * * *.'' *See Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey,* 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Model Match Comment 1.

[41] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand,* 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; *see also Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany,* 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

corresponding amount of freight charges incurred.[42]

Pursuant to section 772(d)(1) of the Act, we made additional adjustments to CEP for credit expenses, warranty expenses, inventory carrying costs incurred in the UAE, and other indirect selling expenses. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. For a detailed discussion of these adjustments, *see* Universal Preliminary Analysis Memorandum.

Normal Value

A. Home Market Viability and Comparison-Market Selection

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 equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Universal's volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise. *See* section 773(a)(1)(C) of the Act. Based on this comparison, we determined that Universal had a viable home market during the POI. *See* Universal's April 25, 2012 section B and C supplemental questionnaire response at Exhibit A–38 (quantity and value chart). Consequently, we based NV on Universal's home market sales.

B. Affiliated Party Transactions

Pursuant to 19 CFR 351.403(d), if an exporter or producer sold the foreign like product through an affiliated party, the Department may calculate NV based on sales made by such affiliated party. The Department's regulation further states that the Department normally will not calculate NV based on sales by an affiliated party if sales of the foreign like product by an exporter or producer to affiliated parties account for less than five percent of the total value or quantity of the exporter's or producer's sales of the foreign like product in the comparison market or if sales to the affiliated party are comparable, as defined in 19 CFR 351.403(c).

During the POI, Universal sold the foreign like product to three affiliated distributors in the UAE: Al Zaher Building Materials LLC (ALZ), ANA Steel Trading LLC (ANA), and Dayal Steel Suppliers (DSS). In its BQR at 7, Universal stated that since its sales to ALZ, ANA, and DSS surpassed five percent of domestic market sales during the POI and none of the affiliated distributors consumed the foreign like product, it was reporting sales by the affiliated distributors to unaffiliated customers in the UAE. For the preliminary determination, we have calculated NV based on downstream sales by ALZ, ANA, and DSS.

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 the EP or CEP. *See also* section 773(a)(7) of the Act. Pursuant to 19 CFR 351.412(c)(1)(iii), the NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on constructed value, the starting price of the sales from which we derive selling, general and administrative expenses, and profit. For CEP sales (which constituted all of Universal's reported sales), the U.S. LOT is based on the starting price of the U.S. sales, as adjusted under section 772(d) of the Act, which is from the exporter to the importer. *See* 19 CFR 351.412(c)(1)(ii).

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). 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 a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision).[43]

In this investigation, we obtained information from Universal regarding the marketing stages involved in making its reported home market and U.S. market sales, including a description of the selling activities performed by Universal and its affiliates for each channel of distribution. *See* Universal's AQR at pages 10–15 and Universal's ASQR at 5–10 and Exhibit A–19 (revised selling functions chart). Universal reported two channels of distribution in the home market: (1) Sales by UTP, DIP, and KHK directly to unaffiliated customers; and (2) sales by the three affiliated distributors directly to unaffiliated customers. *See, e.g.,* Universal's BQR at 15. In the U.S. market, Universal reported one channel of distribution corresponding to the CEP sales made through its affiliated company in the United States, Prime Metal. *See, e.g.,* Universal's CQR at 11. Universal claimed that its CEP U.S. sales were made at a different, less advanced LOT than its comparison market sales. *See, e.g.,* Universal's May 4, 2012 supplemental questionnaire response at 2. Because it had no comparison market sales that were at the same LOT as its CEP sales, Universal stated that it cannot seek a LOT adjustment and claimed that a CEP offset is warranted. *Id.*

In evaluating Universal's claim, we examined the sales activities it performed for both of its reported home market channels of distribution. Based on our analysis, we preliminarily determine that Universal made sales at two different LOTs, because for sales by affiliated distributors, both Universal and its affiliated distributors performed various selling activities associated with the affiliated distributors' sales to unaffiliated customers in the home market, whereas only Universal performed such selling functions for sales directly to unaffiliated customers. *See, e.g.,* Universal's ASQR at 5–10 and Exhibit A–19. Thus, based on Universal's responses, we preliminarily determine that Universal sold at two LOTs in the comparison market. Further, based on Universal's responses, we preliminarily determine that Universal sold at one LOT in the U.S. market since there is only one channel of distribution in this market, and the marketing process and selling functions are generally the same for all of Universal's customers in the United States. *Id.*

We then compared the U.S. LOT to the two LOTs in the comparison market. Record evidence indicates that Universal undertakes significantly fewer selling activities for its CEP sales than it performed for its home market sales. For example, based on Universal's responses, sales at the U.S. LOT do not include activities such as inventory maintenance, warranty services, and sales/marketing support. *Id.* Accordingly, we considered the CEP LOT to be different from the two home market LOTs and to be at a less advanced stage of distribution than the home market LOTs.

Based on our findings, we could not match the CEP sales to sales at the same

[42] *See* Wood Flooring Decision Memorandum at Comment 39.

[43] *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) (applying the CEP offset analysis under section 773(a)(7)(B)).

LOT in the home market. In addition, we could not make a LOT adjustment because the differences in price between the CEP level of trade and the two home market LOTs could not be quantified due to the lack of an equivalent LOT in the home market to the CEP LOT. Also, there are no other data on the record which would allow us to make a LOT adjustment. Because the data available do not form an appropriate basis for making a LOT adjustment, and because the NV LOTs are more remote from the factory than the CEP LOT, for this preliminary determination we have made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Tariff Act. In accordance with section 773(a)(7) of the Act, we calculated the CEP offset as the smaller of the indirect selling expenses on the home-market sale or the indirect selling expenses we deducted from the starting price in calculating CEP.

D. Cost of Production Analysis

Based on the Department's analysis of petitioners' allegation, we initiated a sales-below-cost investigation to determine whether Universal had sales that were made at prices below their COP pursuant to section 773(b) of the Act. *See* Universal Cost Initiation Memorandum.

1. Calculation of Cost of Production

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses and packing, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by Universal except where noted below. Based on the review of record evidence, Universal did not appear to experience significant changes in the cost of manufacturing during the period of investigation. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

—We increased UTP's and DIP's reported total cost of manufacturing (COM) to include the un-reconciled difference between the COM in the overall cost reconciliation and the reported cost files.
—We included provisions for net realizable value in the calculation of UTP's general and administrative (G&A) expense ratio numerator.
—We included the annual management fees and excluded the scrap revenues which were related to the merchandise not under consideration from the calculation of DIP's G&A expense ratio numerator.
—We included interest expenses associated with loans from the shareholders in the calculation of UTP's, DIP's, and KHK's financial expense ratio numerator.
—We set UTP's negative other material costs (which were reported in a separate data field of the cost file) to zero.
—For CONNUMs sold but not produced during the POI, we used as a surrogate the most similar product cost based on the Department's product characteristic hierarchy. For additional details, *see* Memorandum to Neal M. Halper from Ji Young Oh, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination—Universal Tube and Plastic Industries, Ltd.'' dated May 23, 2012 (Universal Preliminary Cost Calculation Memorandum).

2. Test of Comparison Market Prices

As required under section 773(b)(1)–(2) of the Act, we compared the weighted-average COP for Universal to its home market sales prices of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.,* normally a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We compared the model-specific COP to home market prices, less any applicable billing adjustments, movement charges, commissions, direct and indirect selling expenses, and packing. *See* Universal Preliminary Analysis Memorandum.

3. Results of COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POI were made at prices less than the COP, we determine that such sales have been made in ''substantial quantities.'' *See* section 773(b)(2)(C) of the Act. Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below-cost sales occurring during the entire POI. In accordance with section 773(b)(2)(D) of the Act, we compare prices to the POI-average costs to determine whether the prices permit recovery of costs within a reasonable period of time.

In this case, we found that, for certain products, more than 20 percent of Universal's sales were made at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. Therefore, we excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. *See* Universal Preliminary Analysis Memorandum.

E. Calculation of Normal Value Based on Comparison-Market Prices

We calculated NV for Universal based on the reported packed, delivered prices to comparison market customers. We made deductions from the starting price, where appropriate, for billing adjustments, inland freight, and warehousing expenses, pursuant to section 773(a)(6)(B)(ii) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), we made, where appropriate, circumstance-of-sale adjustments for credit expenses, warranties, and import duties paid on finished goods sold in the UAE that were produced in the Jebel Ali free trade zone. We added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. In accordance with 19 CFR 351.410(e), we made an adjustment (*i.e.,* the commission offset) to account for commissions paid in one market but not the other. Finally, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses incurred on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign-like product and subject merchandise. *See* 19 CFR 351.411(b).

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act and 19 CFR 351.415(a) based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information relied upon in making our final determination for Universal.

Preliminary Determination

The weighted-average dumping margins are as follows:

Manufacturer/exporter	Weighted-average margin (percent)
Universal Tube and Plastic Industries, Ltd., KHK Scaffolding & Formwork LLC, Universal Tube and Pipe Industries LLC	3.29
Abu Dhabi Metal Pipes & Profiles Industries Complex LLC ..	11.71
All Others	3.29

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct CBP to suspend liquidation of all entries of certain steel pipe from the UAE that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Consistent with the Department's practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit or posting of a bond equal to the amount by which the normal value exceeds the export price or constructed export price, less the amount of the countervailing duty determined to constitute an export subsidy.[44] In this case, although the product under investigation is also subject to a concurrent countervailing duty investigation, the Department preliminarily found no countervailable export subsidy.[45] Therefore, we have not offset the cash deposit rates shown above for purposes of this preliminary determination.

We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated above as follows: (1) The rates for Universal and ADPICO will be the rates we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the manufacturer is, the rate will be the rate established for the manufacturer of the subject merchandise; and (3) the rate for all other producers or exporters will be 3.29 percent, as discussed in the ''All Others Rate'' section below. These suspension-of-liquidation instructions will remain in effect until further notice.

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated ''All Others'' rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. Universal is the only respondent in this investigation for which the Department has calculated a company-specific rate that is not zero or *de minimis.* Therefore, for purposes of determining the ''all others'' rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Universal, 3.29 percent, for the ''all others'' rate, as referenced in the ''Preliminary Determination'' section, above.

Disclosure

The Department will disclose to parties the calculations performed in connection with this preliminary determination within five days of the date of publication of this notice. *See* 19 CFR 351.224(b).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters, who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On May 17, 2012, Universal requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (135 days after publication of the preliminary determination) and extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. On May 18, 2012, petitioners Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube also requested that the Department postpone its final determination by 60 days. In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting producer/exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly. We are also extending the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of the Department's preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain steel pipe from the UAE, or sales (or the likelihood of sales) for importation, of the certain steel pipe within 45 days of our final determination.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and 19 CFR 351.309(d)(2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. *See* 19 CFR 351.309(c)(2). Executive summaries should be limited to five pages total, including footnotes. Interested parties who wish to comment on the preliminary determination must

[44] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India,* 69 FR 67306, 67307 (November 17, 2004).

[45] *See Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination,* 77 FR 19219 (March 30, 2012).

file briefs electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time.

In accordance with section 774(1) of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. *See also* 19 CFR 351.310. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using IA ACCESS, as noted above. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral presentations will be limited to issues raised in the case briefs. If a request for a hearing is made, we will inform parties of the scheduled date and time for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. *See* 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

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

Dated: May 23, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (''O.D.'') not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.,* black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.,* American Society for Testing and Materials International (''ASTM''), proprietary, or other) generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term ''carbon quality'' includes products in which: (a) Iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium;
(xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (''API'') API–5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.,* polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished scaffolding;[46] (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (*e.g.,* outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

1.315 inch O.D. and 0.035 inch wall thickness (gage 20)
1.315 inch O.D. and 0.047 inch wall thickness (gage 18)
1.315 inch O.D. and 0.055 inch wall thickness (gage 17)
1.315 inch O.D. and 0.065 inch wall thickness (gage 16)
1.315 inch O.D. and 0.072 inch wall thickness (gage 15)
1.315 inch O.D. and 0.083 inch wall thickness (gage 14)
1.315 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.047 inch wall thickness (gage 18)
1.660 inch O.D. and 0.055 inch wall thickness (gage 17)
1.660 inch O.D. and 0.065 inch wall thickness (gage 16)
1.660 inch O.D. and 0.072 inch wall thickness (gage 15)
1.660 inch O.D. and 0.083 inch wall thickness (gage 14)
1.660 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.109 inch wall thickness (gage 12)
1.900 inch O.D. and 0.047 inch wall thickness (gage 18)
1.900 inch O.D. and 0.055 inch wall thickness (gage 17)
1.900 inch O.D. and 0.065 inch wall thickness (gage 16)
1.900 inch O.D. and 0.072 inch wall thickness (gage 15)
1.900 inch O.D. and 0.095 inch wall thickness (gage 13)
1.900 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.047 inch wall thickness (gage 18)
2.375 inch O.D. and 0.055 inch wall thickness (gage 17)
2.375 inch O.D. and 0.065 inch wall thickness (gage 16)
2.375 inch O.D. and 0.072 inch wall thickness (gage 15)
2.375 inch O.D. and 0.095 inch wall thickness (gage 13)
2.375 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.120 inch wall thickness (gage 11)
2.875 inch O.D. and 0.109 inch wall thickness (gage 12)
2.875 inch O.D. and 0.134 inch wall thickness (gage 10)
2.875 inch O.D. and 0.165 inch wall thickness (gage 8)
3.500 inch O.D. and 0.109 inch wall thickness (gage 12)
3.500 inch O.D. and 0.148 inch wall thickness (gage 9)
3.500 inch O.D. and 0.165 inch wall thickness (gage 8)
4.000 inch O.D. and 0.148 inch wall thickness (gage 9)
4.000 inch O.D. and 0.165 inch wall thickness (gage 8)
4.500 inch O.D. and 0.203 inch wall

[46] Finished scaffolding is defined as component parts of a final, finished scaffolding that enters the United States unassembled as a ''kit.'' A ''kit'' is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

thickness (gage 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States (''HTSUS'') statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. However, the product description, and not the HTSUS classification, is dispositive of whether the merchandise imported into the United States falls within the scope of the investigation.

[FR Doc. 2012–13230 Filed 5–31–12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–811]

Circular Welded Carbon-Quality Steel Pipe From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

DATES: *Effective Date:* June 1, 2012.

SUMMARY: The Department of Commerce (Department) preliminarily determines that circular welded carbon-quality steel pipe (certain steel pipe) from the Socialist Republic of Vietnam (Vietnam) is being, or is likely to be, sold in the United States at less-than-fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (Act). The estimated margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice.

Pursuant to requests from interested parties, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2924 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Initiation

On October 26, 2011, the Department received a petition concerning imports of certain steel pipe from Vietnam filed in proper form by Allied Tube and Conduit, JMC Steel Group, Wheatland Tube Company, and the United States Steel Corporation (petitioners).[1]

On November 15, 2011, the Department initiated an antidumping duty (AD) investigation on certain steel pipe from Vietnam.[2] Additionally, in the *Initiation Notice,* the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in non-market economy (NME) investigations such as this investigation.[3]

On December 12, 2011, the United States International Trade Commission (the Commission) issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Vietnam of certain steel pipe. The Commission published its preliminary determination in the **Federal Register** on December 16, 2011.[4]

Questionnaire

On December 21, 2011, the Department issued to Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd. (Haiphong Hongyuan) and SeAH Steel VINA Corporation (SeAH VINA) the NME AD questionnaire with product characteristics used in the designation of control numbers (CONNUMs) and assigned to the merchandise under consideration. Between January 18, 2012, and May 2, 2012, Haiphong Hongyuan and SeAH VINA submitted responses to the Department's original and supplemental sections A, C, and D questionnaires. On May 9 and 10, 2012, SeAH VINA submitted additional factor values for materials that it had previously classified as indirect rather than direct raw materials. On May 11, 2012, petitioners submitted comments on those submissions from SeAH VINA.

Period of Investigation

The period of investigation (POI) is April 1, 2011, through September 30, 2011.[5]

Scope of Investigation

The products covered by this investigation are circular welded carbon-quality steel pipe from Vietnam. For a full description of the scope of the investigation, as set forth in the *Initiation Notice* see the ''Scope of the Investigation'' in Appendix I of this notice.

Scope Comments

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of the date of signature of the Initiation Notice. *See Initiation Notice,* 76 FR at 72164. We received comments from SeAH VINA, a Vietnamese producer, on December 5, 2011, and we received rebuttal comments from petitioners Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube Company on December 14, 2011. After reviewing all comments, we have adopted the ''Scope of the Investigations'' section of this notice, in Appendix I. The Department also set aside a period of time for parties to comment on product characteristics for use in the AD duty questionnaire and indicated that in order to consider such comments, they should be submitted no later than December 9, 2012. *See Initiation Notice,* 76 FR at 72164–5. On December 9, 2011, we received comments from a UAE producer named Universal Tube and Plastics Industries, Ltd. and its U.S. affiliate, Prime Metal Corporation USA.

As noted above, on December 5, 2011, SeAH VINA, a mandatory respondent in this investigation and the concurrent CVD investigations of certain steel pipe from Vietnam, filed comments arguing that the treatment of double and triple stenciled pipe in the scope of these investigations differs from previous treatment of these products under other orders on circular welded pipe. Specifically, SeAH VINA claims that the Brazilian, Korean, and Mexican orders on these products exclude ''Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil and gas pipelines * * *'' *See* SeAH VINA comments (December 5, 2011); *see also Certain Circular Welded Non-Alloy Steel Pipe from Brazil, Mexico, the Republic of Korea, and Taiwan; and Certain Circular Welded Carbon Steel*

[1] *See* Circular Welded Carbon-Quality Steel Pipe From India, Oman, the UAE, and Vietnam: Antidumping and Countervailing Duty Petitions, filed on October 26, 2011 (the petition).

[2] *See Circular Welded Carbon-Quality Steel Pipe From India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations,* 76 FR 72164 November 22, 2011) (*Initiation Notice*).

[3] *See id.,* 76 FR at 72169.

[4] *See* Investigation Nos. 701–TA–482 and 731–TA–1191–1194 (Preliminary), *Circular Welded Carbon-Quality Steel Pipe From India, Oman, the United Arab Emirates, and Vietnam,* 76 FR 78313 (December 16, 2011).

[5] *See* 19 CFR 351.204(b)(1).

Pipes and Tubes From Taiwan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Order, 76 FR 66899, 66900 (Oct. 28, 2011). According to SeAH VINA: (i) If the term ''class or kind of merchandise'' has meaning, it cannot have a different meaning when applied to the same products in two different cases; and (ii) the distinction between standard and line pipe reflected in the Brazil, Korean and Mexican orders derives from customs classifications administered by U.S. Customs and Border Protection (CBP) and, thus, is more administrable.

On December 14, 2011, Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube (collectively, Certain Petitioners), responded to SeAH VINA's comments stating that the scope as it appeared in the *Initiation Notice* reflected Petitioners' intended coverage. Certain Petitioners contend that pipe that is multi-stenciled to both line pipe and standard pipe specifications and meets the physical characteristics listed in the scope (*i.e.,* is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.,* polyester coated) surface finish; or has a threaded and/or coupled end finish) is ordinarily used in standard pipe applications. Certain Petitioners state that, in recent years, the Department has rejected end-use scope classifications, preferring instead to rely on physical characteristics to define coverage, and the scope of these investigations has been written accordingly. Therefore, Certain Petitioners ask the Department to reject SeAH VINA's proposed scope modification.

We agree with Certain Petitioners that the Department seeks to define the scopes of its proceedings based on the physical characteristics of the merchandise. *See Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* 73 FR 31970 (June 5, 2008), and accompanying Issues and Decision Memorandum at Comment 1. Moreover, we disagree with SeAH VINA's contention that once a ''class or kind of merchandise'' has been established that the same scope description must apply across all proceedings involving the product. For example, as the Department has gained experience in administering AD duty and countervailing duty orders, it has shifted away from end use classifications to scopes defined by the physical characteristics. *Id.* Thus, proceedings initiated on a given product many years ago may have end use classifications while more recent proceedings on the product would not. *Compare, e.g., Countervailing Duty Order: Oil Country Tubular Goods from Canada,* 51 FR 21783 (June 16, 1986) (describing subject merchandise as being ''intended for use in drilling for oil and gas'') *with Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 3203 (January 20, 2010) (describing the subject merchandise in terms of physical characteristics without regard to use or intended use). Finally, Certain Petitioners have indicated the domestic industry's intent to include multi-stenciled products that otherwise meet the physical characteristics set out in the scope. Therefore, the Department is not adopting SeAH VINA's proposed modification of the scope.

Respondent Selection

In the *Initiation Notice,* the Department stated its intent to limit the number of quantity and value (Q&V) questionnaires sent to exporters or producers to those companies identified in the petition.[6] On November 16, 2011, the Department sent Q&V questionnaires to the ten companies identified in the petition as exporters or producers of certain steel pipe from Vietnam. The Department also posted the Q&V questionnaire for this investigation on its Web site at *http://ia.ita.doc.gov/ia-highligHTSUS-and-news.html.* Of the ten companies to which the Department sent Q&V questionnaires, the Department received six Q&V responses.[7] In addition, the Department also received two unsolicited Q&V responses.[8]

Based on the responses submitted to the Department, on December 20, 2011, the Department selected Vietnam Haiphong and SeAH VINA as the only mandatory respondents for individual examination in this investigation. These two respondents account for the largest volumes of subject merchandise sold to the United States during the POI that can be reasonably examined.[9]

Surrogate Country Comments

On March 27, 2012, the Department determined that Bangladesh, India, Indonesia, Nicaragua, Pakistan, and the Philippines are countries comparable to Vietnam in terms of economic development.[10] On March 28, 2012, the Department requested comments from the interested parties regarding the selection of a surrogate country. We received comments from Haiphong Hongyuan, SeAH VINA, and petitioners on April 18, 2012. We returned petitioners' comments on April 24, 2012, because they were not properly filed, and gave petitioners an opportunity to correct the errors and resubmit them. Petitioners responded in an April 26, 2012, submission, but did not resubmit their comments.

For a detailed discussion of the selection of the surrogate country, *see* ''Surrogate Country'' and ''Surrogate Country Selection'' sections below.

Surrogate Value Comments

On April 25, 2012, petitioners, Haiphong Hongyuan and SeAH VINA submitted surrogate factor valuation comments and data. On April 30, May 2, and May 3, 2012, respectively, petitioners, Haiphong Hongyuan and SeAH VINA and submitted rebuttal comments. Petitioners submitted further comments on May 9, 2012, to which SeAH VINA responded on May 11, 2012.

Separate Rate Applications

Between February 1, 2012, and March 28, 2012, the Department received separate rate applications from three companies in addition to those from the two mandatory respondents.[11] *See* the ''Separate Rates'' section below for the full discussion of the treatment of the separate rate applicants.

Postponement of Preliminary Determination

On February 29, 2012, petitioners filed a timely request to postpone the issuance of the preliminary determination. On March 16, 2012, the Department published in the **Federal**

[6] *See Initiation Notice,* 76 FR at 72168.

[7] The Department received responses from Huu Lien Asia Corporation, Daiwa Lance International Co., Ltd., Hoa Phat Steel Pipe Co., Ltd., Hoa Sen Group, SeAH Steel VINA Corporation, and Vietnam Steel Pipe Co., Ltd.

[8] The Department received unsolicited Q&V responses from Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd., and Sun Steel Joint Stock Co. (SUNSCO).

[9] *See* ''Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Richard Weible, Director, Office 8; Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam: Respondent Selection,'' (Respondent Selection Memo) dated December 20, 2011.

[10] *See* ''Memorandum from Carole Showers, Director, Office of Policy, to Robert James, Program Manager, Office 7: Request for a List of Surrogate Countries for an Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam,'' dated March 27, 2012 (Surrogate Country List).

[11] The following companies filed separate-rate applications: Haiphong Hongyuan, SeAH VINA, Huu Lien Asia Corporation, Hoa Phat Steel Pipe Co., Ltd., and SUNSCO.

Register a notice postponing the preliminary AD duty determination for this investigation of certain steel pipe from Vietnam.[12]

Non-Market-Economy Country

For purposes of initiation, petitioners treated Vietnam as an NME country.[13] The Department considers Vietnam to be 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 Department.[14] Therefore, we continue to treat Vietnam as an NME country for purposes of this preliminary determination.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOP), valued in a surrogate market economy (ME) 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 ME countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.[15] Once the Department has identified the countries that are economically comparable to Vietnam, it identifies those countries which are significant producers of comparable merchandise. From the list of countries which are both economically comparable and significant producers the Department will select a primary surrogate country based upon whether the data for valuing FOPs are both available and reliable.

Economic Comparability

As explained in our Surrogate Country List, the Department considers Bangladesh, India, Indonesia, Nicaragua, Pakistan, and the Philippines all comparable to Vietnam in terms of economic development.[16] Therefore, we consider all six countries as having satisfied this prong of the surrogate country selection criteria.[17]

Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin for guidance on defining comparable merchandise.[18] The Policy Bulletin states that ''the terms 'comparable level of economic development,' 'comparable merchandise,' and 'significant producer' are not defined in the statute.'' The Policy Bulletin further states that ''in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.'' Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[19] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.[20] ''In cases where identical merchandise is not produced, the team must determine if other merchandise that is comparable is produced. How the team does this depends on the subject merchandise.'' [21] In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

> In other cases, however, where there are major inputs, *i.e.,* inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, e.g., processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.[22]

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.[23] Moreover, while the legislative history provides that the term ''significant producer'' includes any country that is a significant ''net exporter,'' [24] it does not preclude reliance on additional or alternative metrics. To evaluate this factor we obtained export data using the Global Trade Atlas (GTA) for HTSUS numbers 7306.19, 7306.30, and 7306.50, which are comparable to the merchandise under consideration because circular welded pipe falls within these HTSUS categories. The GTA data demonstrate that all six of the countries identified in the Surrogate Country List were exporters of comparable merchandise during the POI, and thus ''significant producers'' of comparable merchandise under the legislative history. In particular, the selected surrogate country, India, had 156,174 metric tons of exports during the period of April through August, 2011.[25]

Data Availability

On April 25, 2012, petitioners Allied Tube and the JMC Group submitted surrogate value (SV) data for the Department's consideration, all of which were for Indonesia. On April 25, 2012, Haiphong Hongyuan and SeAH VINA submitted factor values for India. On April 30, 2012, petitioners submitted comments on the respondents' suggestion of India as the surrogate country. On May 2, 2012, Haiphong Hongyuan and SeAH VINA submitted comments on petitioners' April 25, 2012, submission. We received further comments from petitioners on May 9, 2012. Allied Tube and the JMC Group provided publicly available and contemporaneous Indonesian SVs with

[12] *See Circular Welded Carbon-Quality Steel Pipe From India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Postponement of Preliminary Determination of Antidumping Duty Investigations,* 77 FR 15718 (March 16, 2012).

[13] *See* the petition, Vol. 2 at II–8; *see also Initiation Notice,* 76 FR at 72167.

[14] *See Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 60632 (October 25, 2007).

[15] *See* Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin) available on the Department's Web site at *http://ia.ita.doc.gov/policy/index.html.*

[16] *See* Surrogate Country List.

[17] *See* section 773(c)(4)(A) of the Act.

[18] *See* Policy Bulletin.

[19] The Policy Bulletin also states that ''if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise,'' at note 6.

[20] *See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 62 FR 65674 (December 15, 1997) and accompanying Issues and Decision Memorandum at Comment 1 (to impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute).

[21] *See* Policy Bulletin, at 2.

[22] *See id.,* at 3.

[23] *See* section 773(c) of the Act; *Nation Ford Chem. Co.* v. *United States,* 166 F.3d 1373, 1377 (Fed. Cir. 1999).

[24] *See* Conference Report accompanying H.R. 3, the 1988 Omnibus Trade & Competitiveness Act, H. Rep. No. 100–576, at 590 (1988) (Conference Report).

[25] As of this writing, data for the final month of the POI, September 2011, were not available.

which to value the respondents' reported factors of production. They also provided the financial statements for an Indonesian producer of identical merchandise, and for an Indonesian pipe servicer. Respondents provided full SV data from India, and the financial statements of four Indian producers of identical or comparable merchandise.

When evaluating SV data, the Department considers several factors including whether the SV data are publicly available, contemporaneous with the POI, represent a broad-market average, from an approved surrogate country, tax- and duty-exclusive, and specific to the input. There is no hierarchy among these criteria. It is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.[26]

In this case, the record contains no data for Bangladesh, Nicaragua, Pakistan or the Philippines. Accordingly, these countries will not be considered for surrogate country selection purposes at this time.

Surrogate Country Selection

For this preliminary determination, the Department has selected India as the surrogate country for valuing FOPs. While we have found, as stated above, that both India and Indonesia are economically comparable to Vietnam, and that both countries are significant producers of comparable merchandise, we find that the SV data on the record for India is superior to that of the data for Indonesia. There are two reasons for this determination. First, we find the GTA data with respect to India are stronger than with respect to Indonesia. Specifically, one of the respondents imported the main input material in the making of subject merchandise, steel strip, under an HTS number that during the POI had extremely low imports into Indonesia (500 kilograms). In contrast, India imported nearly three million kilograms of that HTS number during the five months for which we currently have data (after removing NME countries and countries with non-industry-specific export subsidies). Second, we have on the record the financial statements of four Indian producers of pipe, whereas we have on the record the financial statements of only one Indonesian producer of pipe. The latter is a consolidated financial statement of a large conglomerate, and includes the financial data of subsidiary companies involved in fields far different from pipe production (*e.g,* telecommunications). Furthermore, the financial statements of the four Indian companies are more contemporaneous to our POI than is the financial statement of the Indonesian producer of pipe.

In accordance with 19 CFR 351.301(c)(3)(i), for the final determination interested parties may submit publicly available information to value the FOPs within 40 days after the date of publication of the preliminary determination.[27]

Targeted Dumping

Targeted Dumping Allegations

The statute allows the Department to employ an alternative dumping margin calculation methodology in an AD investigation under the following circumstances: (1) There is a pattern of export prices (EP) or constructed export prices (CEP) for comparable merchandise that differ significantly among purchasers, regions, or periods of time; and (2) the Department explains why such differences cannot be taken into account using the standard average-to-average or transaction-to-transaction methodology.[28]

On April 3, 2012, the Department received petitioning firm Wheatland Tube's (Wheatland's) allegations of targeted dumping by Haiphong Hongyuan and SeAH VINA using the Department's targeted dumping test as established in *Steel Nails from the UAE*[29] as clarified in *Multilayered Wood Flooring from the People's Republic of China.*[30] In its allegations, Wheatland asserted that there are patterns of U.S. sales prices for comparable merchandise that differ significantly among purchasers, time periods, and regions.

On April 11, 2012, Haiphong Hongyuan submitted comments on the allegation, arguing that Wheatland computation was flawed. In response, on April 17, 2012, Wheatland submitted a revised computation, arguing that the computation again showed there were patterns of U.S. sales prices for comparable merchandise that differ significantly among purchasers, time periods, and regions. On April 20 and May 9, 2012, Haiphong Hongyuan submitted comments on Wheatland's revised calculation, arguing that it constitutes a new allegation, and is therefore untimely, given that the deadline for the allegation was April 8, 2012. However, we regard Wheatland's April 16, 2012, submission as a revision to a timely-filed allegation, rather than a new, untimely allegation. Therefore, we have analyzed targeted dumping with respect to Haiphong Hongyuan in this preliminary determination based on Wheatland's April 16, 2012, submission. We have also analyzed targeted dumping in this investigation with respect to SeAH VINA based on petitioners' April 2, 2012, submission. On May 2 and May 11, 2012, SeAH VINA submitted comments on the targeted dumping allegation.

Targeted Dumping Test

We conducted a targeted dumping analysis for Haiphong Hongyuan and SeAH VINA by time period, customer and region using the methodology we adopted in *Steel Nails from the UAE* and most recently articulated in *Wood Flooring from the PRC.* The methodology we employed involves a two-stage test; the first stage addresses the pattern requirement and the second stage addresses the significant-difference requirement.[31] In this test, we made all price comparisons on the basis of identical merchandise (*i.e.,* by CONNUM). We based all of our targeted dumping calculations on the U.S. net price, which we determined for U.S. sales by Haiphong Hongyuan and SeAH VINA in our standard margin calculations.

Price Comparison Method

The Department preliminarily has found a pattern of prices for comparable merchandise that differs significantly by

[26] *See* Policy Bulletin.

[27] In accordance with 19 CFR 351.301(c)(1), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by any other interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information. *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum (*Glycine from the PRC*) at Comment 2.

[28] *See* section 777A(d)(1)(B) of the Act.

[29] *See Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value,* 73 FR 33985 (June 16, 2008) (*Steel Nails from the UAE*) and accompanying Issues and Decision Memorandum at Comments 1–9; *see also Proposed Methodology for Identifying and Analyzing Targeted Dumping in Antidumping Investigations; Request for Comment,* 73 FR 26371 (May 9, 2008).

[30] *Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 76 FR 64318 (October 18, 2011) (*Wood Flooring from the PRC*).

[31] *See Steel Nails from the UAE,* and accompanying Issues and Decision Memorandum at Comments 3 and 6; and *Wood Flooring from the PRC,* and accompanying Issues and Decision Memorandum at Comment 4.

time period, customer, and region (*i.e.,* targeted dumping). We determine preliminarily, however, that these price differences can be taken into account using the standard average-to-average methodology because both the standard and alternative methodologies yielded zero or *de minimis* margins for both respondents. Accordingly, for this preliminary determination we have applied the standard average-to-average methodology to all U.S. sales reported by Haiphong Hongyuan and SeAH VINA.[32]

Separate Rates

In proceedings involving NME countries, there is a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single AD rate.[33] It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.[34] However, if the Department determines that a company is wholly foreign-owned or located in a ME country, then a separate rate analysis is not necessary to determine whether that company is independent from government control.[35]

In the *Initiation Notice,* the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME investigations.[36] The process requires exporters and producers to submit a separate rate status application.[37]

Separate Rate Recipients

1. Wholly Foreign-Owned

Three separate rate applicants in this investigation (Foreign-Owned SR Applicants), provided evidence that they are wholly owned by individuals or companies located in MEs in their separate rate applications.[38] Therefore, because they are wholly foreign-owned and the Department has no evidence indicating that they are under the control of the government of Vietnam, a separate rates analysis is not necessary to determine whether these companies are independent from government control. *See Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China,* 64 FR 71104 (December 20, 1999) (determining that the respondent was wholly foreign-owned, and thus, qualified for a separate rate). Accordingly, the Department has preliminarily granted a separate rate to these Foreign-Owned SR Applicants. *See Preliminary Determination Margins* section below.

2. Wholly Vietnamese-Owned Companies

Because Hoa Phat and Huu Lien Asia (Huu Lien) have stated that they are wholly Vietnamese-owned companies, the Department must analyze whether these companies can demonstrate that they are sufficiently independent through the absence of both *de jure* and *de facto* governmental control over export activities.

a. Absence of *De Jure* Control

The evidence that Hoa Phat and Huu Lien provided supports a preliminary finding of *de jure* absence of governmental control based on the following factors articulated in *Sparklers from the PRC:* (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of Vietnamese companies; and (3) the implementation of formal measures by the government decentralizing control of Vietnamese companies, *See* Hoa Phat's February 1, 2012, submission at 2–4 and Huu Lien's March 21, 2012, submission at 4–8.

b. Absence of *De Facto* Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[39] The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

We determine that for Hoa Phat and Huu Lien the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing the following: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and (4) each exporter has autonomy from the government regarding the selection of management. *See* Hoa Phat's February 1, 2012, submission at 4 through 10 and Huu Lien's March 21, 2012, submission at 9–17.

The evidence that Hoa Phat and Huu Lien placed on the record of this investigation demonstrates an absence of *de jure* and *de facto* government control with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers from the PRC* and *Silicon Carbide from the PRC.* As a result, we have preliminarily determined that it is appropriate to grant Hoa Phat and Huu Lien a margin

[32] *See Steel Nails from the UAE,* 77 FR at 17031.

[33] *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 55039, 55040 (September 24, 2008) (*PET Film from the PRC*).

[34] *See, e.g., Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991) (*Sparklers from the PRC*) as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585 (May 2, 1994) (*Silicon Carbide from the PRC*), and 19 CFR 351.107(d).

[35] *See, e.g., PET Film from the PRC.*

[36] *See Initiation Notice,* 76 FR at 72169.

[37] *See* Policy Bulletin 05.1: Separate Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, (April 5, 2005), (Policy Bulletin 05.1) available at *http://ia.ita.doc.gov.* Policy Bulletin 05.1 states, at 6: ''{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise *both* exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation'' (emphasis added).

[38] Those companies were Haiphong Hongyuan, SeAH VINA, and Sun Steel Joint Stock Company.

[39] *See Silicon Carbide,* 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995).

based on the experience of the investigated companies.

Calculation of Separate Rate

Normally the separate rate is determined based on the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding *de minimis* margins or margins based entirely on adverse facts available (AFA). *See* section 735(c)(5)(A) of the Act. However, section 735(c)(5)(B) of the Act provides that ''{i}f the estimated weighted average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* margins, or are determined under section 776 {*i.e.,* facts available}, the administering authority may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the weighted average dumping margins determined for the exporters and producers individually examined.'' Additionally, the Department does not consider the use of an AFA rate in such an average to be an application of an adverse inference because the statute explicitly permits such averaging. Moreover, the Court of International Trade has upheld the Department's use of AFA and *de minimis* rates to determine a rate to be applied to uninvestigated companies.[40]

Therefore, as an alternative to an average of the margins calculated for individually examined companies, we have calculated a separate rate using a simple average of the zero margins calculated for Haiphong Hongyuan and SeAH VINA, and the 27.96 percent petition rate. We preliminarily determine the rate for companies entitled to a separate rate as 9.32 percent. *See* the ''Application of Adverse Facts Available'' section, *infra.*

Companies Not Receiving a Separate Rate

In the *Initiation Notice,* the Department requested that all companies wishing to qualify for separate rate status in this investigation submit a separate rate status application. *See Initiation Notice,* 76 FR at 72169. The following three exporters submitted a timely response to the Department's Q&V questionnaire, but did not provide a separate rate application: (1) Daiwa Lance International Co., Ltd.; (2) Hoa Sen Group; (3) Vietnam Steel Pipe Co. Ltd. (a/k/a Vinapipa), and therefore have not demonstrated their eligibility for separate rate status in this investigation. As a result, the Department is treating these Vietnamese exporters as part of the Vietnam-wide entity.

Application of Adverse Facts Available, Vietnam-Wide Entity and Vietnam-Wide Rate

As stated above, we issued our request for Q&V information to ten potential Vietnamese producers/exporters of certain steel pipe. While information on the record of this investigation indicates that there are other producers/exporters of certain steel pipe in Vietnam, we received only six timely-filed solicited Q&V responses from companies to whom we sent a Q&A questionnaire. (In addition, as noted above, we also received two timely-filed, unsolicited Q&V responses, which we considered for respondent selection purposes.) Thus, although all producers/exporters were given an opportunity to provide Q&V information, not all producers/exporters did so.[41] We have treated these Vietnamese producers/exporters who did not respond to the Department's Q&V letter as part of the Vietnam-wide entity because they do not qualify for a separate rate.[42] For a detailed discussion, *see* the ''Separate Rate'' section above.

Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the AD statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available (FA) in reaching the applicable determination.

Information on the record of this investigation indicates that the Vietnam-wide entity was unresponsive to the Department's requests for information. Specifically, as discussed above, certain companies did not respond to our questionnaires requesting Q&V information. As a result, pursuant to section 776(a)(2)(A) of the Act, we find that the use of FA is appropriate to determine the Vietnam-wide rate.[43]

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information.[44] We find that, because the Vietnam-wide entity did not respond to our requests for information, it has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the FA, an adverse inference is appropriate.

When employing an adverse inference, section 776(b) of the Act indicates that the Department may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse ''as to effectuate the statutory purposes of the AFA rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' [45] As guided by the SAA, the information used as AFA should ensure an uncooperative party does not benefit by failing to cooperate than if it had cooperated fully.[46] It is the Department's practice to select, as AFA, the higher of the: (a) Highest margin alleged in the petition; or (b) the highest calculated rate of any respondent in the

[40] *See Laizhou Auto Brake Equipment Co.* v. *United States,* Court No. 06–00430, Slip Op. 08–71 (Ct. Int'l Trade, 2008) at 24–25.

[41] The following four companies were not responsive to the Department's request for Q&V information: Hyundai-Huy Hoang Pipe, Tianjin Lida Steel Pipe Group, Vietnam Germany Steel Pipe, and Vingal Industries Co., Ltd.

[42] *See, e.g., Prestressed Concrete Steel Wire Strand From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 74 FR 68232, 68236 (December 23, 2009) (*PC Strand from the PRC*) unchanged in *Prestressed Concrete Steel Wire Strand From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 75 FR 28560 (May 21, 2010); *see also Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China,* 70 FR 77121, 77128 (December 29, 2005), unchanged in *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China,* 71 FR 29303 (May 22, 2006).

[43] *See PC Strand from the PRC,* 74 FR at 68236.

[44] *See also* Statement of Administrative Action accompanying the Uruguay Round Agreements Act (URAA), H.R. Doc. 103–316, 870 (1994) (SAA); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation,* 65 FR 5510, 5518 (February 4, 2000).

[45] *See Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil,* 67 FR 55792, 55796 (August 30, 2002); *see also Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8932 (February 23, 1998).

[46] *See* SAA at 870.

investigation.[47] As AFA, we have preliminarily assigned a rate of 27.96 percent to the Vietnam-wide entity, the highest margin alleged in the petition, as corrected by the Department at our initiation of this investigation.[48]

Corroboration

Section 776(c) of the Act provides that, when the Department relies upon secondary information, rather than information obtained in the course of the investigation, as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the merchandise subject to this investigation, or any previous review under section 751 concerning the merchandise subject to this investigation.'' [49] To ''corroborate'' means the Department will satisfy itself that the secondary information to be used has probative value. Independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information. The AFA rate the Department used is drawn from the petition, as adjusted to reflect Court of Appeals for the Federal Circuit's decision in *Dorbest Ltd.* v. *United States,* 604 F.3d 1363, 1372 (Fed. Cir. 2010) (*Dorbest*).[50] To corroborate the AFA margin we have selected, we compared it to model-specific margins we found for the participating mandatory respondent SeAH VINA. We found the margin of 27.96 percent has probative value because it is in the range of the SeAH VINA's model-specific margins. Accordingly, we find the rate of 27.96 percent is corroborated within the meaning of section 776(c) of the Act.[51] The Vietnam-wide entity rate applies to all entries of certain steel pipe except for entries from Haiphong Hongyuan, SeAH VINA, and the three other producers/exporters receiving a separate rate.

Date of Sale

19 CFR 351.401(i) states that, ''{i}n identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business.'' Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.[52] The Court of International Trade (the Court) has stated, ''a party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to 'satisfy' the Department that 'a different date better reflects the date on which the exporter or producer establishes the material terms of sale.' '' [53] The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms.[54]

Both Haiphong Hongyuan and SeAH VINA reported their dates of sale based on the date their U.S. affiliates issued an invoice to the unaffiliated U.S. customer. No information on the record demonstrates that any other date better reflected the date on which the material terms of sale were established. Therefore, consistent with 19 CFR 351.401(i), the Department has preliminarily determined that the invoice date is the date that best reflects when the material terms of sale are set, and used it as the date of sale in this preliminary determination.

Fair Value Comparisons

To determine whether sales of certain steel pipe to the United States by Haiphong Hongyuan and SeAH VINA were made at LTFV, we compared CEP to NV, as described in the ''U.S. Price,'' and ''Normal Value'' sections of this notice. Specifically, we compared NV to weighted-average CEPs in accordance with section 777A (d)(1) of the Act.

U.S. Price

Both Haiphong Hongyuan and SeAH VINA reported that all of their U.S. sales during the POI were CEP in accordance with section 772(b) of the Act. We based CEP on prices to the first unaffiliated purchaser in the United States.

Where appropriate, we made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, and U.S. movement expenses, in accordance with section 772(c)(2)(A) of the Act. We based movement expenses on either SVs if the expense was paid to an NME company in Vietnamese dong, or actual expenses if they were paid for in a market-economy currency. *See* ''Memorandum from Fred Baker to the File, Re: Surrogate Values Used in the Preliminary Determination'' (SV Memorandum), dated concurrently with this notice for details regarding the SVs used for movement expenses.

In accordance with section 772(d)(1) of the Act, we also deducted, where appropriate, those selling expenses associated with economic activities occurring in the United States. We deducted, where appropriate, rebates, discounts, commissions, advertising expenses, credit expenses, warranty expenses, further processing, inventory carrying costs, and indirect selling expenses. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOP methodology 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.[55]

[47] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China,* 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China,* 72 FR 19690 (April 19, 2007).

[48] *See Initiation Notice* at 76 FR 72168.

[49] *See Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate from the People's Republic of China,* 63 FR 6479, 6481 (February 4, 2008), quoting the SAA at 870.

[50] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor,* 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).

[51] *Id.*

[52] *See* 19 CFR 351.401(i); *see also Allied Tube & Conduit Corp.* v. *United States,* 132 F. Supp. 2d 1087, 1090 (Ct. Int'l. Trade 2001) (quoting 19 CFR 351.401(i)) (*Allied Tube*).

[53] *See Allied Tube,* 132 F. Supp. 2d at 1090–1092.

[54] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey,* 65 FR 15123 (March 21, 2000) and accompanying Issues and Decision Memorandum at Date of Sale, Comment 1.

[55] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China,* 71 FR 19695 (April 17, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value, and Affirmative*

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data Haiphong Hongyuan and SeAH VINA reported for the POI. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs, except for certain inputs for which the Department determined that usage of market-economy (ME) prices was warranted, as described below. In selecting the SVs, among other criteria, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to the SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F.3d 1401, 1407–08 (Fed. Cir. 1997).[56]

For this preliminary determination, we used Indian import statistics to calculate SVs for the mandatory respondents' FOPs (direct materials, energy inputs, and packing materials). In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POI, product-specific, and tax-exclusive.[57]

Furthermore, with regard to the Indian import-based SVs, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, Thailand and South Korea may have been subsidized because we have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.[58] Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.[59] Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized.[60] Rather, the Department bases its decision on information that is available to it at the time it makes its determination. Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an ''unspecified'' country from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.[61] Therefore, we have not used prices from these countries either in calculating the Indian import-based SVs or in calculating ME input values.[62]

SeAH VINA reported that certain of its raw material inputs were sourced from an ME country and paid for in an ME currency. When a respondent sources inputs from an ME supplier in meaningful quantities, we use the actual price paid by the respondent for those inputs, except when prices may have been distorted by dumping or subsidies.[63] Where we found ME purchases to be of significant quantities (*i.e.,* 33 percent or more), in accordance with our statement of policy as outlined in *Antidumping Methodologies: Market Economy Inputs,*[64] we used the actual purchases of these inputs to value the inputs.

Accordingly, we valued certain of SeAH VINA's inputs using the ME prices paid for in an ME currency for the inputs where the total volume of the input purchased from all ME sources during the POR exceeded or was equal to 33 percent of the total volume of the input purchased from all sources during the period. Where ME purchases constituted less than 33 percent of the total volume of input purchased, we weight-averaged the ME purchase prices with an appropriate SV. Where appropriate, we added freight to the ME prices of inputs. For a detailed description of the actual values used for the ME inputs reported, *see* the SV Memorandum and the SeAH VINA Analysis Memo.

Previously, the Department used regression-based wages that captured the worldwide relationship between per capita GNI and hourly manufacturing wages, pursuant to 19 CFR 351.408(c)(3), to value the respondent's cost of labor. However, on May 14, 2010, the Federal Circuit in *Dorbest* invalidated 19 CFR 351.408(c)(3). As a consequence of the Federal Circuit's ruling in *Dorbest,* the Department no longer relies on the regression-based wage rate methodology described in its regulations.

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME AD proceedings.[65] In *Labor Methodologies,* the Department explained that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country.[66] Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics (Yearbook).[67] The latest year for which ILO Chapter 6A reports national data for India is 2005. The Department finds the two-digit description under Division 27 (Manufacture of Basic Metals) of the ISIC-Revision 3 to be the best available information on the record because it is most specific to the industry being

Critical Circumstances, in Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079 (September 8, 2006).

[56] A detailed description of all SVs used can be found in the SV Memorandum.

[57] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 71005 (December 8, 2004).

[58] *See, e.g., Certain Cut-to-Length Carbon Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review,* 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review,* 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19–20; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from Thailand,* 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.

[59] *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.

[60] *See* Conference Report, at 590; *see also Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 30758 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 60632 (October 25, 2007).

[61] *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, 75301 (December 16, 2004), unchanged in *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).

[62] *See id.*

[63] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27366 (May 19, 1997).

[64] *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments,* 71 FR 61716, 61717 (October 19, 2006) (*Antidumping Methodologies: Market Economy Inputs*).

[65] *See Labor Methodologies.*

[66] *See Labor Methodologies,* 76 FR at 36093.

[67] *See id.*

examined, and is therefore derived from industries that produce comparable merchandise. Accordingly, relying on Chapter 6A of the Yearbook, the Department calculated the labor input using labor data reported by India to the ILO under Division 27 of ISIC-Revision 3 standard, in accordance with Section 773(c)(4) of the Act. A more detailed description of the labor rate calculation methodology is provided in the Preliminary Surrogate Value Memorandum. We find that this information constitutes the best available information on the record because it is the most contemporaneous data available for the POI and, thus, more accurately reflective of actual wages in India.

Therefore, for the preliminary determination, we calculated the labor inputs using the data for average monthly industrial wages prevailing during 2005 in India, corresponding to ''Manufacturing'' economic sector. For the preliminary determination, the calculated industry-specific wage rate is 2.16 Rs./hour. Because the Indian financial statements on the record do not itemize the indirect costs reflected in Chapter 6A data, we find that the facts and information on the record do not warrant or permit an adjustment to the surrogate financial statements.[68] A more detailed description of the wage rate calculation methodology is provided in the Surrogate Values Memorandum.

To value factory overhead, selling, general, and administrative expenses, and profit, we relied on the financial statements of Crimson Metal Engineering Company, Ltd., Rajasthan Tube Manufacturing Company, Ltd., APL Apollo Tubes Limited, and Nezone Tubes Limited, all Indian producers of identical or comparable merchandise.

For further details regarding the calculation of the surrogate financial rations, *see* the Surrogate Values Memorandum.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

Combination Rates

In the *Initiation Notice,* the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation.[69] All separate rates the Department now assigns to exporters will be specific to those producers that supplied the exporter during the POI. This practice applies both to mandatory respondents receiving an individually-calculated separate rate, as well as the pool of non-investigated firms receiving the average of rates applied in this investigation. This practice is referred to as the application of ''combination rates,'' because such rates apply to the specific combination of exporters and their supplying producers. The cash-deposit rate assigned to an exporter will apply only to merchandise *both* exported by the firm in question and produced by a firm that supplied the exporter during the POI.

Preliminary Determination

The weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-average margin (percent)
SeAH Steel VINA Corporation	SeAH Steel VINA Corporation	0.00
Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd.	Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd.	0.00
Sun Steel Joint Stock Company	Sun Steel Joint Stock Company	9.32
Huu Lien Asia Corporation	Huu Lien Asia Corporation	9.32
Hoa Phat Steel Pipe Co	Hoa Phat Steel Pipe Co	9.32
Vietnam-Wide Rate[70]		27.96

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of certain steel pipe from Vietnam as described in the ''Scope of Investigation'' section, entered, or withdrawn from warehouse, for consumption from Haiphong Hongyuan, SeAH VINA, the Separate-Rate Respondents, and the Vietnam-wide entity on or after the date of publication of this notice in the **Federal Register**. Additionally, we will instruct CBP to require an AD cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated above.[71]

Additionally, the Department has preliminarily determined in its concurrent countervailing duty investigation of circular welded pipe from Vietnam that subject merchandise exported by Haiphong Hongyuan benefitted from export subsidies.[72] With respect to Haiphong Hongyuan, as it currently has a weighted-average dumping margin of zero, consideration of adjusting its cash deposit rate is moot.

For SeAH VINA, we will make no adjustment to its cash deposit rate as we found no countervailable export subsidies for the company in the CVD investigation. *Id.*

For the remaining separate rate respondents not subject to individual investigation who are receiving the All Others rate in the CVD investigation, we will instruct CBP to require an antidumping duty cash deposit or posting of a bond equal to the amount by which the NV exceeds the U.S. price, as indicated above, reduced by the

[68] *See id.* at 36094.

[69] *See Initiation Notice,* 76 FR at 72169; Policy Bulletin 05.1.

[70] Vietnam-Wide entity includes: Hyundai-Huy Hoang Pipe, Tianjin Lida Steel Pipe Group, Vietnam Germany Steel Pipe, and Vingal Industries Co., Ltd.

[71] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India,* 69 FR 67306, 67307 (November 17, 2007).

[72] *See Circular Welded Carbon Quality Steel Pipe from the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Antidumping Duty Determination,* 77 FR 19211 (March 30, 2012).

lesser of the average export subsidy rates determined in the CVD investigation or the average of the CVD export subsidy rates applicable to the mandatory respondents upon which the separate rate dumping margins are based.[73]

For all other entries of circular welded pipe from Vietnam, the following cash deposit or bonding instructions apply: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate we have determined in this preliminary determination; (2) for all Vietnam exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the Vietnam-wide rate; and (3) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to Vietnam exporter/producer combination that supplied that non-Vietnam exporter. These suspension-of-liquidation instructions will remain in effect until further notice.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On May 18, 2012, Haiphong Hongyuan requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (135 days after publication of the preliminary determination) and extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. Also on May 18, 2012, SeAH VINA requested that the Department postpone its final determination by 60 days. On the same day, petitioners Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube also requested that the Department postpone its final determination by 60 days. In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting producer/exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly. We are also granting the request to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we will notify the Commission of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the Commission to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain steel pipe, or sales (or the likelihood of sales) for importation, within 45 days of our final determination.

Public Comments

Parties may submit case briefs or other written comments to the Assistant Secretary for Import Administration no later than seven days after the date on which the Department issues the final verification report in this proceeding. Parties may submit rebuttal briefs, limited to issues raised in case briefs, no later than five days after the deadline date for case briefs. *See* 19 CFR 351.309. A table of contents, list of authorities used and an executive summary of issues should accompany any briefs parties submit to the Department. Parties should limit this summary to five pages total, including footnotes.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). The Department's electronic records system, IA ACCESS, must successfully receive in its entirety any electronically filed document by 5 p.m. Eastern Standard Time (ET) within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, telephone number, the number of participants, and a list of the issues to be discussed. If any party requests a hearing, we will inform parties of the scheduled date of the hearing, which we will hold at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. *See* 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing.

We will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: May 21, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (''O.D.'') not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.,* black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.,* American Society for Testing and Materials International (''ASTM''), proprietary, or other) generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term ''carbon quality'' includes products in which: (a) Iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium;

[73] In this case, the Department only found countervailable export subsidies of 8.06 percent applicable to Haiphong Hongyuan.

(xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (''API'') API–5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: Is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted (*e.g.,* polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished scaffolding; [74] (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (*e.g.,* outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

1.315 inch O.D. and 0.035 inch wall thickness (gage 20)
1.315 inch O.D. and 0.047 inch wall thickness (gage 18)
1.315 inch O.D. and 0.055 inch wall thickness (gage 17)
1.315 inch O.D. and 0.065 inch wall thickness (gage 16)
1.315 inch O.D. and 0.072 inch wall thickness (gage 15)
1.315 inch O.D. and 0.083 inch wall thickness (gage 14)
1.315 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.047 inch wall thickness (gage 18)
1.660 inch O.D. and 0.055 inch wall thickness (gage 17)
1.660 inch O.D. and 0.065 inch wall thickness (gage 16)
1.660 inch O.D. and 0.072 inch wall thickness (gage 15)
1.660 inch O.D. and 0.083 inch wall thickness (gage 14)
1.660 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.109 inch wall thickness (gage 12)
1.900 inch O.D. and 0.047 inch wall thickness (gage 18)
1.900 inch O.D. and 0.055 inch wall thickness (gage 17)
1.900 inch O.D. and 0.065 inch wall thickness (gage 16)
1.900 inch O.D. and 0.072 inch wall thickness (gage 15)
1.900 inch O.D. and 0.095 inch wall thickness (gage 13)
1.900 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.047 inch wall thickness (gage 18)
2.375 inch O.D. and 0.055 inch wall thickness (gage 17)
2.375 inch O.D. and 0.065 inch wall thickness (gage 16)
2.375 inch O.D. and 0.072 inch wall thickness (gage 15)
2.375 inch O.D. and 0.095 inch wall thickness (gage 13)
2.375 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.120 inch wall thickness (gage 11)
2.875 inch O.D. and 0.109 inch wall thickness (gage 12)
2.875 inch O.D. and 0.134 inch wall thickness (gage 10)
2.875 inch O.D. and 0.165 inch wall thickness (gage 8)
3.500 inch O.D. and 0.109 inch wall thickness (gage 12)
3.500 inch O.D. and 0.148 inch wall thickness (gage 9)
3.500 inch O.D. and 0.165 inch wall thickness (gage 8)
4.000 inch O.D. and 0.148 inch wall thickness (gage 9)
4.000 inch O.D. and 0.165 inch wall thickness (gage 8)
4.500 inch O.D. and 0.203 inch wall thickness (gage 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States (''HTSUS'') statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. However, the product description, and not the HTSUS classification, is dispositive of whether the merchandise imported into the United States falls within the scope of the investigation.

[FR Doc. 2012–13227 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

[74] Finished scaffolding is defined as component parts of a final, finished scaffolding that enters the United States unassembled as a ''kit.'' A ''kit'' is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–852]

Circular Welded Carbon-Quality Steel Pipe From India: Preliminary Determination of Sales at Less Than Fair Value

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

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that circular welded carbon-quality steel pipe from India is being, or is likely to be, sold in the United States at less than fair value (LTFV) as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margin of sales at LTFV is listed in the ''Suspension of Liquidation'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian and Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1131 and (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 26, 2011, the Department received petitions concerning imports of circular welded carbon-quality steel pipe (certain steel pipe) from India, the Sultanate of Oman (Oman), the United Arab Emirates (UAE), and the Socialist Republic of Vietnam (Vietnam) filed in proper form on behalf of Allied Tube and Conduit, JMC Steel Group, Wheatland Tube Company, and United States Steel Corporation (collectively, Petitioners).[1]

On November 15, 2011, the Department initiated the antidumping duty investigations on certain steel pipe from India, Oman, the UAE, and Vietnam.[2]

We noted in the *Initiation Notice* that this investigation covers merchandise

[1] *See* Circular Welded Carbon-Quality Steel Pipe from India, Oman, the UAE, and Vietnam: Antidumping and Countervailing Duty Petitions, filed on October 26, 2011 (hereinafter, the Petitions).

[2] *See Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations,* 76 FR 72164 (November 22, 2011) (*Initiation Notice*).

manufactured and/or exported by Zenith Steel Pipes and Industries Ltd., which had been excluded from an existing antidumping duty order covering welded steel pipe and tube from India.[3] In the *Initiation Notice,* we stated Petitioners had referred to Zenith Steel Pipes and Industries Ltd. and Zenith Birla (India) Limited interchangeably.[4] *See Initiation Notice* at 72168. Zenith Birla (India) Limited appeared to be the current name for what was previously known as Zenith Steel Pipes and Industries, Ltd., and we indicated we intended to issue questionnaires to both of these named entities. *See id.* Because these companies are the sole companies subject to this investigation, the Department has not invoked the exception under section 777A(c)(2) of the Act, and the Department issued its questionnaire to Zenith Steel Pipes and Industries Ltd. and Zenith Birla (India) Limited on November 22, 2011. Only Zenith Birla (India) Limited responded to our questionnaire (see ''Use of Facts Otherwise Available'' section, below), and nothing on the record of the investigation contradicts our original conclusion that Zenith Birla (India) Limited is the current name for the company formerly known as Zenith Steel Pipes and Industries, Ltd.[5]

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of the date of signature of the *Initiation Notice. See Initiation Notice,* 76 FR at 72164. We received comments from SeAH Steel Vina Corp. (SeAH VINA), a Vietnamese producer, on December 5, 2011, and we received rebuttal comments from petitioners Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube Company on December 14, 2011. After reviewing all comments, we have adopted the ''Scope of Investigation'' section of this notice, below. The Department also set aside a period of time for parties to comment on product characteristics for use in the antidumping duty questionnaire and indicated that in order to consider such comments, they should be submitted no later than December 9, 2012. *See Initiation Notice,* 76 FR at 72164–5. On December 9, 2011, we received comments from a UAE producer named Universal Tube and Plastics Industries, Ltd. and its U.S. affiliate, Prime Metal Corporation USA. After reviewing all comments, we have adopted the product characteristics and hierarchy as explained in the preliminary determinations of concurrent antidumping investigations on certain steel pipe.

On December 16, 2011, the International Trade Commission (ITC) published its affirmative preliminary determination that there is a reasonable indication that imports of certain steel pipe from India, Oman, the UAE, and Vietnam are materially injuring the U.S. industry, and the ITC notified the Department of its finding.[6]

On February 8, 2012, petitioners Allied Tube and Conduit and JMC Steel Group, filed an allegation of sales below cost with respect to Zenith Birla. Those petitioners supplemented that allegation in a submission made February 9, 2012. On February 21, 2012, the Department initiated a cost investigation with respect to Zenith Birla. *See* the February 21, 2012, memorandum from The Team to Richard Weible entitled ''The Petitioners' Allegation of Sales Below the Cost of Production for Zenith Birla (India), Ltd.''

On February 17, 2012, petitioner Wheatland Tube Corporation filed an allegation of targeted dumping by Zenith Birla. *See* the ''Allegation of Targeted Dumping'' section below.

On February 29, 2012, petitioners Allied Tube and Conduit and JMC Steel Group requested that the Department postpone its preliminary determination by 50 days. In accordance with section 733(c)(1)(A) of the Act, we postponed our preliminary determination by 50 days.[7]

Period of Investigation

The period of investigation is October 1, 2010, through September 30, 2011. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, October 2011. *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The products covered by this investigation are circular welded carbon-quality steel pipe from India. For a full description of the scope of the investigation, as set forth in the *Initiation Notice* see the ''Scope of the Investigation'' in Appendix I of this notice.

Scope Comments

As noted above, on December 5, 2011, SeAH VINA, a mandatory respondent in the concurrent AD and CVD investigations of certain steel pipe from Vietnam, filed comments arguing that the treatment of double and triple stenciled pipe in the scope of these investigations differs from previous treatment of these products under other orders on circular welded pipe. Specifically, SeAH VINA claims that the Brazilian, Korean, and Mexican orders on these products exclude ''Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil and gas pipelines * * *'' *See* SeAH Vina comments (December 5, 2011); *see also Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea, and Taiwan; and Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Order,* 76 FR 66899, 66900 (Oct. 28, 2011). According to SeAH VINA: (i) If the term ''class or kind of merchandise'' has meaning, it cannot have a different meaning when applied to the same products in two different cases; and (ii) the distinction between standard and line pipe reflected in the Brazil, Korean and Mexican orders derives from customs classifications administered by U.S. Customs and Border Protection (CBP) and, thus, is more administrable.

On December 14, 2011, Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube (collectively, Certain Petitioners), responded to SeAH VINA's comments stating that the scope as it appeared in the *Initiation Notice* reflected Petitioners' intended coverage. Certain Petitioners contend that pipe that is multi-stenciled to both line pipe and standard pipe specifications and meets the physical characteristics listed in the scope (*i.e.,* is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.,* polyester coated) surface finish; or has a threaded and/or coupled end finish) is ordinarily used in standard pipe applications. Certain Petitioners state that, in recent years, the Department has rejected end-use scope classifications, preferring instead to rely on physical characteristics to define coverage, and the scope of these investigations has been written accordingly. Therefore, Certain Petitioners ask the Department to reject SeAH VINA's proposed scope modification.

[3] *See Antidumping Duty Order; Certain Welded Carbon Steel Standard Pipes and Tubes from India,* 51 FR 17384 (May 12, 1986).

[4] *See Initiation Notice* at 72168.

[5] Because the party filing responses referred to itself as Zenith Birla (India) Limited, henceforward we refer to the respondent as ''Zenith Birla.''

[6] *See Circular Welded Carbon-Quality Steel Pipe From India, Oman, the United Arab Emirates, and Vietnam,* Investigation Nos. 701–TA–482–485 and 731–TA–1191–1194 (Preliminary), 76 FR 78313 (December 16, 2011).

[7] *See Circular Welded Carbon-Quality Steel Pipe From India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 77 FR 15718 (March 16, 2012).

We agree with Certain Petitioners that the Department seeks to define the scopes of its proceedings based on the physical characteristics of the merchandise. *See Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* 73 FR 31970 (June 5, 2008), and accompanying Issues and Decision Memorandum at Comment 1. Moreover, we disagree with SeAH VINA's contention that once a ''class or kind of merchandise'' has been established that the same scope description must apply across all proceedings involving the product. For example, as the Department has gained experience in administering antidumping duty and countervailing duty orders, it has shifted away from end use classifications to scopes defined by the physical characteristics. *Id.* Thus, proceedings initiated on a given product many years ago may have end use classifications while more recent proceedings on the product would not. *Compare, e.g., Countervailing Duty Order: Oil Country Tubular Goods from Canada,* 51 FR 21783 (June 16, 1986) (describing subject merchandise as being ''intended for use in drilling for oil and gas'') *with Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 3203 (January 20, 2010) (describing the subject merchandise in terms of physical characteristics without regard to use or intended use). Finally, Certain Petitioners have indicated the domestic industry's intent to include multi-stenciled products that otherwise meet the physical characteristics set out in the scope. Therefore, the Department is not adopting SeAH VINA's proposed modification of the scope.

Use of Facts Otherwise Available

For the reasons discussed below, we determine that the use of facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to Zenith Birla.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that where the Department determines a response to a request for information does not comply with the request, the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; (5) the information can be used without undue difficulties.

The Department stated the following in a letter to Zenith Birla dated February 6, 2012: ''{t}he questionnaire responses submitted by Zenith Birla (India) Ltd. have been in some instances untimely filed, and submissions made have contained deficiencies. These deficiencies have included failure to explicitly justify requested proprietary treatment for certain information, insufficient public summaries of business proprietary information, and/or failure to certify the accuracy and service of certain submissions. In addition, many of the specific requests for information have gone unanswered, and in some instances the answers provided have been contradictory. The number and nature of these and other problems is so pervasive as to reflect a persistent pattern of obstruction of, and non-cooperation with, this investigation.'' We noted ''that further deficiencies of this nature may result in the rejection of such responses in their entirety, and may warrant the use of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.''

Zenith Birla did not respond in a timely manner to the Department's supplemental questionnaire dated February 21, 2012. In response to requests from Zenith Birla, the Department extended the original deadline for response to that questionnaire from March 6, 2012, to March 12, 2012, and from the latter to March 15, 2012. On March 15, 2012, Zenith Birla requested an additional deadline extension, to March 19, 2012, and the Department extended the deadline until 12:00 noon on March 16, 2012. Shortly before that deadline on March 16, 2012, Zenith Birla submitted a letter indicating it would submit its response in three parts: One part on time, one part after the deadline on March 16, 2012, and one part by 9:00 a.m. on March 19, 2012. This letter requested that the deadlines for each of the latter two parts be extended by the Department to conform to this schedule. The Department did not extend the deadline, and none of Zenith Birla's response was filed on time. On March 19, 2012, the Department issued a letter to Zenith Birla indicating the Department was rejecting the untimely response and deleting it from the record. On March 19, 2012, the Department noted in a memorandum to the file that the documents in question should be rejected and deleted from the record. On April 9, 2012, Zenith Birla submitted a letter claiming it was responding to the best of its ability, that the Department could not impose adverse inferences unless it could show the respondent failed to act to the best of its ability, and that the Department could not cease the questionnaire process unless it could demonstrate it lacked the time to complete the investigation within statutory deadlines.

In this case, Zenith Birla did not respond to our request for information in a timely manner, withheld information the Department requested, and significantly impeded the proceeding. Zenith Birla's involvement in this investigation, when viewed in conjunction with the requirements of sections 782(c) and (d) of the Act and the instructions clearly articulated in the Department's questionnaire, show that Zenith Birla was afforded sufficient opportunities to provide the requested information, and, therefore, the Department was under no obligation to provide additional opportunities for Zenith Birla to provide this information after the multiple extensions already granted. Because Zenith Birla did not provide the requested information by the established deadline, its submissions do not satisfy the criteria of section 782(e) of the Act. Accordingly, pursuant to section 776(a)(2) of the Act, we are relying upon facts otherwise

available for Zenith Birla's antidumping duty margin.

B. Application of Adverse Inferences for Facts Available

Section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting the facts otherwise available.[8] In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. 103–316, Vol. 1, 103d Cong. (1994) (SAA), explains that the Department may employ an adverse inference ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' [9] Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan,* 65 FR 42985 (July 12, 2000); Antidumping Duties, Countervailing Duties, 62 FR 27296, 27340 (May 19, 1997); and *Nippon Steel Corp.* v. *United States,* 337 F.3d 1373, 1382–83 (Fed. Cir. 2003) (''While intentional conduct, such as deliberate concealment or inaccurate reporting, surely evinces a failure to cooperate, the statute does not contain an intent element.''). It is the Department's practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation. *See Essar Steel Ltd.* v. *United States,* 2012 U.S. App. LEXIS 8621 at *18 (Fed. Cir. Apr. 27, 2012) (*Essar*) (''Because Commerce lacks subpoena power, Commerce's ability to apply adverse facts is an important one. The purpose of the adverse facts statute is 'to provide respondents with an incentive to cooperate' with Commerce's investigation, not to impose punitive damages.'')

We provided Zenith Birla with notice informing it of the consequences of failure to respond properly to our antidumping questionnaires, including failure to respond in a timely manner. Nonetheless, Zenith Birla failed to provide a timely response to the February 21, 2012, supplemental questionnaire, despite the Department's multiple extensions of the deadline for filing the response. *See Essar* at *19 (''Without the ability to enforce full compliance with its questions, Commerce runs the risk of gamesmanship and lack of finality in its investigations.''). This failure indicates that Zenith Birla has not cooperated with our requests for information. *See Nippon Steel Corp.* v. *United States,* 337 F.3d 1373, 1382 (Fed. Cir. 2003) (''Compliance with the 'best of its ability' standard is determined by assessing whether respondent has put forth its maximum effort to provide Commerce with full and complete answers to all inquiries in an investigation. While the standard does not require perfection and recognizes that mistakes sometimes occur, it does not condone inattentiveness, carelessness, or inadequate record keeping.''). Moreover, ''{i}t is {respondent's} burden to create an accurate record during Commerce's investigation.'' *See Essar* at *23 (citing *Zenith Elecs. Corp.* v. *United States,* 988 F.2d 1573, 1583 (Fed. Cir. 1993)). Zenith Birla's failures have precluded the Department from performing the necessary analysis and verification of Zenith Birla's questionnaire responses required by section 782(i)(1) of the Act.

For the reasons discussed, the Department has preliminarily determined that Zenith Birla has failed to cooperate to the best of its ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted, pursuant to section 776(b) of the Act.[10]

C. Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. *See also* 19 CFR 351.308(c) and the SAA at 868–870. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated. Normally, it is the Department's practice to use the highest rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the necessary information.[11] The rates in the petition range from 22.88 percent to 48.43 percent. *See Initiation Notice* at 72168.

Section 776(c) of the Act provides that, when the Department relies on secondary information, rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under Section 751 concerning the subject merchandise.'' *See* the SAA at 870. The SAA provides that to ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See id.* The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* 19 CFR 351.308(d); *see also* the SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.[12]

[8] *See Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar From India,* 70 FR 54023, 54025–26 (September 13, 2005), and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod From Brazil,* 67 FR 55792, 55794–96 (August 30, 2002).

[9] *See* SAA at 870; and, *e.g., Certain Polyester Staple Fiber From Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review,* 72 FR 69663 (December 10, 2007).

[10] *See, e.g., Notice of Preliminary Determinations of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From Poland, Indonesia, and Ukraine,* 66 FR 8343, 8346 (January 30, 2001) (unchanged in *Notice of Final Determinations of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From Indonesia, Poland and Ukraine,* 66 FR 18752, 18753 (April 11, 2001) *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan,* 65 FR at 42986 (July 12, 2000) (where the Department applied total adverse facts available (AFA) where respondents failed to respond to questionnaires in a timely manner).

[11] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland,* 69 FR 77216 (December 27, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland,* 70 FR 28279 (May 17, 2005)).

[12] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller*

Continued

During our pre-initiation analysis, we examined evidence supporting the calculations in the Petition and the supplemental information provided by Petitioners prior to initiation to determine the probative value of the margins alleged in the Petition. During our pre-initiation analysis, we examined the information used as the basis of export price and normal value (NV) in the Petition, and the calculations used to derive the alleged margins, thereby corroborating key elements of the export price and NV calculations and establishing the basis for the estimated margins identified in the *Initiation Notice.* Petitioners' methodology for calculating the export price and NV in the Petition is discussed in the *Initiation Notice. See Initiation Notice* at 72166–68. These calculations appear reasonable and no information on the record provides a basis for challenging the appropriateness of those estimated margins. Therefore, because we confirmed the accuracy and validity of the information underlying the calculation of margins in the petition by examining source documents as well as publicly available information, we preliminarily determine that the margins in the petition and in the *Initiation Notice* are reliable for the purposes of this investigation.

Regarding the relevance of the rates in the petition and the *Initiation Notice* to Zenith Birla, the courts have acknowledged that the consideration of the commercial behavior inherent in the industry is important in determining the relevance of the selected AFA rate to the uncooperative respondent by virtue of it belonging to the same industry. *See, e.g., Ferro Union, Inc.* v. *United States,* 44 F. Supp. 2d 1310, 1334 (1999). Because the petition rates are derived from the same industry and are based either on information related to Zenith Birla itself or on aggregate data involving the same industry, we have determined the petition rates to be relevant. In corroborating the petition rates, we examined the prices submitted by Zenith Birla in its questionnaire response. While we note these data cannot be relied upon to calculate a margin for the reasons discussed in detail above, we note that Zenith Birla's own reported prices corroborate the prices used in the petition. *See* the May 23, 2012, analysis memorandum from Steve Bezirganian through Robert James to the File. Consistent with our practice of using the highest rate when AFA is warranted, we are using the higher of the petition and *Initiation Notice* rates, 48.43 percent, as the rate for Zenith Birla.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct CBP to suspend liquidation of all entries of certain steel pipe from India manufactured and/or exported by Zenith Birla that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated below, as follows: (1) The rate for Zenith Birla will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the manufacturer is Zenith Birla, the rate will be the rate established for Zenith Birla. These suspension-of-liquidation instructions will remain in effect until further notice. Note that no ''all others'' deposit rate is required, because Zenith Birla is the only manufacturer covered by the investigation.

Manufacturer/exporter	Weighted-average margin (percent)
Zenith Birla (India) Limited (previously known as Zenith Steel Pipes and Industries Ltd.)	48.43

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at less than fair value. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain steel pipe from India, or sales (or the likelihood of sales) for importation, of the certain steel pipe within 45 days of our final determination.

Public Comment

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

In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on issues raised in case briefs, provided that such a hearing is requested by an interested party. *See also* 19 CFR 351.310. If a timely request for a hearing is made in this investigation, we intend to hold the hearing two days after the deadline for filing a rebuttal brief. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). Hearing 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 a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. *See* 19 CFR 351.310(d).

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

Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part, 62 FR 11825 (March 13, 1997).

Dated: May 23, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

Scope of the India AD Investigation

At the time of the filing of the petition for this case, there was an existing antidumping duty order on welded steel pipe and tube From India. *See Antidumping Duty Order; Certain Welded Carbon Steel Standard Pipes and Tubes from India,* 51 FR 17384 (May 12, 1986). Therefore, the scope of this investigation covers merchandise manufactured and/or exported by Zenith Steel Pipes and Industries Ltd., and any successors-in-interest to that company, which is the only company excluded from the 1986 order known to exist.

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (''O.D.'') not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.,* black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.,* American Society for Testing and Materials International (''ASTM''), proprietary, or other) generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term ''carbon quality'' includes products in which: (a) iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium;
(xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (''API'') API–5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.,* polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished scaffolding; [13] (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (*e.g.,* outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

1.315 inch O.D. and 0.035 inch wall thickness (gage 20)
1.315 inch O.D. and 0.047 inch wall thickness (gage 18)
1.315 inch O.D. and 0.055 inch wall thickness (gage 17)
1.315 inch O.D. and 0.065 inch wall thickness (gage 16)
1.315 inch O.D. and 0.072 inch wall thickness (gage 15)
1.315 inch O.D. and 0.083 inch wall thickness (gage 14)
1.315 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.047 inch wall thickness (gage 18)
1.660 inch O.D. and 0.055 inch wall thickness (gage 17)
1.660 inch O.D. and 0.065 inch wall thickness (gage 16)
1.660 inch O.D. and 0.072 inch wall thickness (gage 15)
1.660 inch O.D. and 0.083 inch wall thickness (gage 14)
1.660 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.109 inch wall thickness (gage 12)
1.900 inch O.D. and 0.047 inch wall thickness (gage 18)
1.900 inch O.D. and 0.055 inch wall thickness (gage 17)
1.900 inch O.D. and 0.065 inch wall thickness (gage 16)
1.900 inch O.D. and 0.072 inch wall thickness (gage 15)
1.900 inch O.D. and 0.095 inch wall thickness (gage 13)
1.900 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.047 inch wall thickness (gage 18)
2.375 inch O.D. and 0.055 inch wall thickness (gage 17)
2.375 inch O.D. and 0.065 inch wall thickness (gage 16)
2.375 inch O.D. and 0.072 inch wall thickness (gage 15)
2.375 inch O.D. and 0.095 inch wall thickness (gage 13)
2.375 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.120 inch wall thickness (gage 11)
2.875 inch O.D. and 0.109 inch wall thickness (gage 12)
2.875 inch O.D. and 0.134 inch wall thickness (gage 10)
2.875 inch O.D. and 0.165 inch wall thickness (gage 8)
3.500 inch O.D. and 0.109 inch wall thickness (gage 12)
3.500 inch O.D. and 0.148 inch wall thickness (gage 9)
3.500 inch O.D. and 0.165 inch wall thickness (gage 8)
4.000 inch O.D. and 0.148 inch wall thickness (gage 9)
4.000 inch O.D. and 0.165 inch wall thickness (gage 8)
4.500 inch O.D. and 0.203 inch wall thickness (gage 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States (''HTSUS'') statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. However, the product description, and not the HTSUS classification, is dispositive of whether the merchandise imported into the United States falls within the scope of the investigation.

[FR Doc. 2012–13235 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

[13] Finished scaffolding is defined as component parts of a final, finished scaffolding that enters the United States unassembled as a ''kit.'' A ''kit'' is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

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

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Gayle Longest, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230, telephone: (202) 482–3338.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) (''the Act'') requires the Department of Commerce (''the Department'') to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish an annual list and quarterly updates to the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on articles of cheese that were imported during the period January 1, 2012, through March 31, 2012.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty.

The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: May 22, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] subsidy ($/lb)	Net [2] subsidy ($/lb)
27 European Union Member States [3]	European Union Restitution Payments	$0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese.	0.35	0.35
Norway:			
	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	*0.00*	*0.00*
	Total	0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).
[3] The 27 member states of the European Union are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

[FR Doc. 2012–13243 Filed 5–31–12; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

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

DATES: *Effective Date:* June 1, 2012.

SUMMARY: The Department of Commerce (''Department'') hereby publishes a list of scope rulings completed between July 1, 2011, and September 30, 2011. In conjunction with this list, the Department is also publishing a list of requests for scope rulings and anticircumvention determinations pending as of September 30, 2011. We intend to publish future lists after the close of the next calendar quarter.

FOR FURTHER INFORMATION CONTACT: Julia Hancock, AD/CVD Operations, China/NME Group, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–1394.

SUPPLEMENTARY INFORMATION:

Background

The Department's regulations provide that the Secretary will publish in the **Federal Register** a list of scope rulings on a quarterly basis. *See* 19 CFR 351.225(o). Our most recent notification of scope rulings was published on December X, 2011. *See Notice of Scope Rulings,* 77 FR 9893 (February 21, 2012). This current notice covers all scope rulings and anticircumvention determinations completed by Import Administration between July 1, 2011, and September 30, 2011, inclusive, and it also lists any scope or anticircumvention inquiries pending as of September 30, 2011. As described below, subsequent lists will follow after the close of each calendar quarter.

Scope Rulings Completed Between July 1, 2011, and September 30, 2011:

Italy

A–475–822: Stainless Steel Plate in Coils From Italy

Requestor: AAVID Thermalloy LLC. (''AAVID''); 24 steel clips imported by AAVID are not within the scope of the antidumping duty order; July 12, 2011.

People's Republic of China

A–570–928: Uncovered Innerspring Units From the People's Republic of China

Requestor: No Boundaries LLC; fabric encased upholstery coil units are within the scope of the antidumping duty order; July 15, 2011.

A–570–891: Hand Trucks From the People's Republic of China

Requestor: WelCom Products; the MC2 Magna Cart and MCI Magna Cart are not within the scope of the antidumping duty order; the MCK Magna Cart is within the scope of the antidumping duty order; September 6, 2011.

A–570–504: Petroleum Wax Candles From the People's Republic of China

Requestor: Trade Associates Group, Ltd.; its figurine candles are not within the scope of the antidumping duty order, while certain of its other candles are within the scope of the antidumping duty order. August 5, 2011.

A–570–504: Petroleum Wax Candles From the People's Republic of China

Requestor: Candym Enterprises, Ltd.; its figurine candles are not within the scope of the antidumping duty order, while certain of its other candles are within the scope of the antidumping duty order. August 5, 2011.

A–570–504: Petroleum Wax Candles From the People's Republic of China

Requestor: Accent Imports; its figurine candles are not within the scope of the antidumping duty order, while certain of its other candles are within the scope of the antidumping duty order. August 5, 2011.

A–570–504: Petroleum Wax Candles From the People's Republic of China

Requestor: Sourcing International, LLC; certain of its candles are within the scope of the antidumping duty order. August 5, 2011.

A–570–866: Folding Gift Boxes From the People's Republic of China

Requestor: Flexo Craft Prints Inc.; certain of its gift boxes are within the scope of the antidumping duty order; July 6, 2011.

A–570–890: Wooden Bedroom Furniture From the People's Republic of China

Requestor: Ashley Furniture Industries Inc.; urethane post base is not within the scope of the antidumping duty order; August 31, 2011.

A–570–951: Certain Woven Electric Blankets From the People's Republic of China

Requestor: HoMedics Inc.; knitted electric heating blanket is not within the scope of the antidumping duty order; August 15, 2011.

A–570–952/C–570–953: Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China

Requestor: Osborne & Little, Inc.; 18 trimmings are within the scope of the antidumping duty order; and two trimmings are not within the scope of the antidumping duty order; September 6, 2011.

A–570–601: Tapered Roller Bearings From the People's Republic of China

Requestor: DF Machinery International, Inc.; its agricultural hub units are within the scope of the antidumping duty order; August 2, 2011.

Multiple Countries

None.

Anticircumvention Determinations Completed Between July 1, 2011, and September 30, 2011:

A–570–849: Certain Cut-to-Length Carbon Steel From the People's Republic of China

Requestor: ArcelorMittal USA, Inc.; Nucor Corporation; SSAB N.A.D., Evraz Claymont Steel and Evraz Oregon Steel Mills; certain cut-to-length carbon steel plate from the PRC that contains a small level of boron, regardless of producer, is circumventing the antidumping duty order; August 17, 2011.

A–570–894: Certain Tissue Paper Products From the People's Republic of China

Requestor: Seaman Paper Company of Massachusetts, Inc.; imports of tissue paper products produced by Max Fortune (Vietnam) Paper Products Company Limited in the Socialist Republic of Vietnam are circumventing the antidumping duty order; August 5, 2011.

Scope Inquiries Terminated Between July 1, 2011, and September 30, 2011:

None.

Anticircumvention Inquiries Terminated Between July 1, 2011, and September 30, 2011:

None.

Scope Inquiries Pending as of September 30, 2011:

People's Republic of China

A–570–506: Porcelain-On-Steel Cooking Ware From the People's Republic of China

Requestor: The Coleman Company, Inc.; whether certain components of its stockpot cooker set (*i.e.,* plastic locking lid and steel cooking base) are within the scope of the antidumping duty order; requested June 17, 2011; initiated September 27, 2011.

A–570–918: Steel Wire Garment Hangers From the People's Republic of China

Requestor: Robert H. Ham Associates Ltd.; whether certain retail display hangers are within the scope of the antidumping duty order on steel wire garment hangers; requested July 21, 2011; initiated October 3, 2011.

A–570–831: Fresh Garlic From the People's Republic of China

Requestor: General Mills, Inc.; whether minced garlic is within the scope of the antidumping duty order; requested April 13, 2011.

A–570–864: Pure Magnesium in Granular Form From the People's Republic of China

Requestor: ESM; whether U.S.-origin pure magnesium exported to the PRC for atomization and re-exported to the United States is within the scope of the order; requested February 11, 2011; initiated May 2, 2011.

A–570–864: Pure Magnesium in Granular Form From the People's Republic of China

Requestor: US Magnesium LLC; whether pure magnesium feedstock exported from the PRC to Mexico and then processed into granular magnesium before exportation to the United States is within the scope of the order; requested April 29, 2011; initiated July 5, 2011.

A–570–967: Aluminum Extrusions From the People's Republic of China

Requestor: A.O. Smith Corporation; whether water heater anodes are within the scope of the antidumping duty order; requested June 14, 2011.

A–570–967/C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: American Fence Manufacturing Company LLC; whether fence sections, posts and gates are within the scope of the antidumping duty and countervailing duty orders; requested June 15, 2011.

A–570–967/C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: Endura Products; whether door thresholds containing aluminum extrusions imported from the PRC are within the scope of the antidumping duty and countervailing duty orders; requested: June 2, 2011.

A–570–967/C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: Origin Point Brands; whether imported aluminum fencing systems are within the scope of the antidumping duty and countervailing duty orders; requested June 27, 2011.

A–570–920/C–570–921: Lightweight Thermal Paper From the People's Republic of China

Requestor: Paper Resources, LLC.; whether certain lightweight thermal paper (''LWTP'') converted into smaller LWTP rolls in the PRC, from jumbo LWTP rolls produced in certain third countries, is within the scope of the antidumping duty and countervailing duty orders; requested February 24, 2011; initiated April 4, 2011.

Mexico

A–201–830: Carbon and Certain Alloy Steel Wire Rod From Mexico

Requestor: Nucor Corporation and Cascade Steel Rolling Mills, Inc.; whether wire rod with an actual diameter between 4.75 and 5.00 millimeters is within the scope of the antidumping order; requested 2/14/2011; initiated May 31, 2011.

Multiple Countries

A–201–837/A–570–954/C–570–955: Magnesia Carbon Bricks From Mexico and the People's Republic of China

Requestor: Fedmet Resources Corporation; whether its magnesia alumina carbon bricks are within the scope of the antidumping duty and countervailing duty orders; initiated September 26, 2011.

A–570–958/C–570–959/A–560–823/C–560–824: Coated Paper From the People's Republic of China and Indonesia

Requestor: Gold East Paper (Jiangsu) Co., Ltd. and its subsidiaries, Pindo Deli Pulp and Paper Mills, PT. Indah Kiat Pulp & Paper Tbk, and Paper Max, Ltd.; whether certain packaging paperboard products and certain playing card products are within the scope of the antidumping and countervailing duty orders; requested June 2, 2011.

A–533–838/C–533–839/A–570–892: Carbazole Violet Pigment 23 From India and the People's Republic of China

Requestor: Nation Ford Chemical Co., and Sun Chemical Corp.; whether finished carbazole violet pigment exported from Japan is within the scope of the antidumping duty and countervailing duty orders; requested February 23, 2010; preliminary ruling May 6, 2011.

Anticircumvention Rulings Pending as of September 30, 2011:

A–570–863: Honey From the People's Republic of China

Requestor: American Honey Producers Association and the Sioux Honey Association; whether honey when blended with rice syrup is circumventing the antidumping duty order; requested August 12, 2011.

A–570–916/C–570–917: Laminated Woven Sacks From the People's Republic of China

Requestor: Coating Excellence International, LLC and Polytex Fibers Corporation; whether laminated woven sacks that are printed with two ink colors, but have the appearance of three or more colors in register, are circumventing the antidumping and countervailing duty orders; requested January 26, 2011; initiated April 22, 2011.

A–570–836: Glycine From the People's Republic of China

Requestor: Geo Specialty Chemicals, Inc. and Chattem Chemicals, Inc.; whether glycine from the PRC, when processed and re-packaged in India and exported as Indian-origin glycine, is circumventing the antidumping duty order; requested December 18, 2009; initiated October 22, 2010.

A–570–929: Small Diameter Graphite Electrodes From the People's Republic of China

Requestor: SGL Carbon LLC and Superior Graphite Co.; whether unfinished small diameter graphite electrodes produced in the PRC and completed and assembled in the United Kingdom are circumventing the antidumping duty order; requested November 30, 2010; initiated February 17, 2011.

A–570–894: Certain Tissue Paper Products From the People's Republic of China

Requestor: Seaman Paper Company of Massachusetts, Inc.; whether certain imports of tissue paper from the Socialist Republic of Vietnam are circumventing the antidumping duty order through means of third country assembly or completion; requested February 18, 2010; initiated March 29, 2010; preliminary determination published April 6, 2011.

A–570–965/C–570–966: Drill Pipe From the People's Republic of China

Requestor: VAM Drilling U.S.A., Texas Steel Conversion Inc. and Rotary Drilling Tools; whether unfinished pipe and tool joints produced in PRC and finished in UAE are circumventing the antidumping and countervailing duty orders; requested June 14, 2011; initiated August 5, 2011.

A–570–918: Steel Wire Garment Hangers From the People's Republic of China

Requestor: M&B Metal Products Inc.; whether certain imports of steel wire garment hangers from the Socialist Republic of Vietnam are circumventing the antidumping duty order through means of third country assembly or completion of merchandise imported from the PRC; requested May 5, 2010; initiated July 22, 2010; preliminary determination published May 10, 2011.

Russia

A–821–807: Ferrovanadium and Nitrided Vanadium From Russia

Requestor: AMG Vanadium, Inc.; whether vanadium pentoxide imports from Russia that are converted into ferrovanadium in the United States are circumventing the antidumping duty order; requested February 25, 2011; initiated May 2, 2011.

Interested parties are invited to comment on the completeness of this list of pending scope and anticircumvention inquiries. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD Operations, Import Administration, International Trade Administration, 14th Street and Constitution Avenue NW., APO/Dockets Unit, Room 1870, Washington, DC 20230.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: April 2, 2012.

Edward C. Yang,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–13237 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Visiting Committee on Advanced Technology (VCAT or Committee), National Institute of Standards and Technology (NIST), will meet Tuesday, June 19, 2012, from 8:30 a.m. to 5:00 p.m. Eastern Time and Wednesday, June 20, 2012, from 9:00 a.m. to 12:00 p.m. Eastern Time. The VCAT is composed of fifteen members appointed by the Under Secretary of

Commerce for Standards and Technology who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations.

DATES: The VCAT will meet on Tuesday, June 19, 2012, from 8:30 a.m. to 5:00 p.m. Eastern Time and Wednesday, June 20, 2012, from 9:00 a.m. to 12:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held in the Portrait Room, Administration Building, at NIST, 100 Bureau Drive, Gaithersburg, Maryland. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Stephanie Shaw, VCAT, NIST, 100 Bureau Drive Gaithersburg, Maryland 20899–1060, telephone number 301–975–2667. Ms. Shaw's email address is *stephanie.shaw@nist.gov*.

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 278.

The purpose of this meeting is to review and make recommendations regarding general policy for NIST, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include an update on NIST followed by presentations and discussions on NIST's planning, assessment, and safety activities; and NIST activities and programs proposed in the FY 2013 budget. The meeting will conclude with a wrap-up discussion covering action items and draft recommendations for the 2012 VCAT Annual Report. The agenda may change to accommodate Committee business. The final agenda will be posted on the NIST Web site at *http://www.nist.gov/director/vcat/agenda.cfm.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs are invited to request a place on the agenda. On June 20, approximately one-half hour will be reserved in the morning for public comments and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the NIST Web site at *http://www.nist.gov/director/vcat/agenda.cfm.* Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak, but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the VCAT, NIST, 100 Bureau Drive MS 1060, Gaithersburg, Maryland, 20899, via fax at 301–216–0529 or electronically by email to *gail.ehrlich@nist.gov.*

All visitors to the NIST site are required to pre-register to be admitted. Please submit your name, time of arrival, email address and phone number to Stephanie Shaw by 5:00 p.m. Eastern Time, Wednesday, June 13, 2012. Non-U.S. citizens must also submit their country of citizenship, title, employer/sponsor, and address. Ms. Shaw's email address is *stephanie.shaw@nist.gov* and her phone number is 301–975–2667.

Dated: May 25, 2012.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2012–13360 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB157

Marine Mammals; File No. 14856

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Bruce R. Mate, Ph.D., Hatfield Marine Science Center, Oregon State University, Newport, OR 97365, has applied in due form for a permit to take marine mammals world-wide for the purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before July 2, 2012.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 14856 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices: See **SUPPLEMENTARY INFORMATION**.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301)713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Laura Morse or Carrie Hubard, (301)427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Dr. Mate proposes to conduct scientific research on 83 identified species of marine mammals species world-wide. The purposes of the proposed research are to: (1) Identify migration routes; (2) identify specific feeding and breeding grounds for each species; (3) characterize local movements and dive habits in both feeding and breeding grounds, and during migration; (4) examine the relationships between movements/dive habits and prey distribution, time of day, geographic location, or physical and biological oceanographic conditions; (5) characterize whale vocalizations; and (6) characterize sound pressure levels to which whales are exposed. Fourteen species of large whales would be approached for biopsy, implantable and suction cup tagging, photo-identification, behavioral observation, passive acoustic recording, and assessment of possible tag effects in U.S. and international waters worldwide over a 5-year period, including 200 each of humpback whale (*Megaptera novaeangliae*), blue whale (*Balaenoptera musculus*), fin whale *(B. physalus*), sei whale (*B. borealis*), Bryde's whale (*B. edeni*), minke whale (*B. acutorostrata*), Antarctic minke whale (*B. bonaerensis*), Eastern North Pacific gray whale (*Eschrichtius robustus*), Southern right whale (*Eubalaena australis*), bowhead whale

(*Balaena mysticetus*), and sperm whale (*Physeter macrocephalus*); 100 killer whales (*Orcinus orca*), excluding the Southern Resident stock; 60 North Pacific right whales (*E. japonica*); and 25 Western North Pacific gray whales. The remaining species including beluga whale (*Delphinapterus leucas*) Cook Inlet stock, killer whale southern resident stock, false killer whale (*Pseudorca crassidens*) Hawaiian insular stock, Steller sea lions, Eastern and Western Distinct Populations Segments (*Eumetopias jubatus*), Guadalupe fur seal (*Arctocephalus townsendi*), Hawaiian monk seal (*Monachus schauinslandi*), bearded seal (*Erignathus barbatus*), and ringed seal (*Pusa hispida*), may be incidentally harassed during tagging and biopsy activities or would be approached for photo-identification, behavioral observation, and passive acoustic recording. Import, export and receipt of biopsy samples are also requested.

A draft environmental assessment (EA) has been prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), to examine whether significant environmental impacts could result from issuance of the proposed scientific research permit. The draft EA is available for review and comment simultaneous with the scientific research permit application.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Documents may be reviewed in the following locations:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)427–8401; fax (301)713–0376;

Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018;

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808)944–2200; fax (808)973–2941;

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978)281–9328; fax (978) 281–9394; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

Dated: May 23, 2012.

Tammy C. Adams,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–13330 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA935

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coral and Coral Reefs Off the Southern Atlantic States; Exempted Fishing Permit; Correction

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

ACTION: Notice of receipt of an application for an exempted fishing permit; correction; request for comments.

SUMMARY: This document contains a correction to a notice of receipt of an application for an exempted fishing permit (EFP) published on April 30, 2012, regarding the South Carolina Aquarium's application to collect display specimens. The notice stated that the EFP would authorize the South Carolina Aquarium to collect, with certain conditions, various species of reef fish, crabs, and lobsters in Federal waters off South Carolina and North Carolina. Within the preamble, spadefish was inadvertently omitted from the list of species proposed to be collected; as such, the total number of species to be collected also needs to be corrected. Additionally, the notice stated that the total number of species would be collected over a period of 5 years; however, the notice for the EFP should state that the total number of species would be collected annually for 5 years. This rule corrects those errors. Due to these corrections, NMFS is extending the comment period until June 15, 2012.

DATES: Written comments must be received no later than 5 p.m., e.t., on June 15, 2012.

ADDRESSES: You may submit comments on the application by either of the following methods:

• *Email: Kate.Michie@noaa.gov;* include in the subject line of the email comment the following document identifier: South Carolina Aquarium EFP.

• *Mail:* Kate Michie, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

The application and related documents are available for review upon written request to any of the above addresses.

FOR FURTHER INFORMATION CONTACT: Anne Marie Eich, telephone: 727–824–5305, email: *AnneMarie.Eich@noaa.gov.*

Correction

In notice document FR Doc. 2012–10372, published in the **Federal Register** issue of April 30, 2012 (77 FR 83), make the following corrections:

1. On page 25407, column 3:

a. Line 10, after the word ''to'' add the word ''annually''.

b. Line 11, remove the word ''1,615'' and add, in its place, ''1,665''.

c. Line 17, after the word ''the'' insert the word ''annual''.

d. Line 29, after the words ''little tunny (25);'' add the word ''spadefish (50);''.

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

Dated: May 29, 2012.

Carrie D. Selberg,

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

[FR Doc. 2012–13388 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

(NOAA) National Climate Assessment and Development Advisory Committee (NCADAC)

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of Open Meeting.

SUMMARY: The National Climate Assessment and Development Advisory Committee (NCADAC) was established by the Secretary of Commerce under the authority of the Global Change Research Act of 1990 to synthesize and summarize the science and information pertaining to current and future impacts of climate.

Time and Date: The meeting will be held June 14, 2012 from 1:00 p.m. to 5:30 p.m. and June 15, 2012, from 9:00 a.m. to 5:00 p.m. These times are subject to change. Please refer to the Web page *http://www.nesdis.noaa.gov/NCADAC/*

index.html for changes and for the most up-to-date meeting agenda.

Place: The meeting will be held in Conference Room A of the American Geophysical Union Building (AGU), 2000 Florida Avenue NW., Washington, DC 20009. Please check the Web site *http://www.nesdis.noaa.gov/NCADAC/index.html* for confirmation of the venue and for directions.

Status: Seating will be available on a first come, first serve basis. Members of the public must RSVP in order to attend all or a portion of the meeting by contacting the NCADAC DFO (*Cynthia.Decker@noaa.gov*) by June 7, 2012. The meeting will be open to public participation with a 15-minute public comment period on June 14 at 5:00–5:15 p.m. and a 30-minute period on June 15 at 12:00–12:30 p.m. (check Web site to confirm time). The NCADAC expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Individuals or groups planning to make a verbal presentation should contact the NCADAC DFO (*Cynthia.Decker@noaa.gov*) by June 7, 2012 to schedule their/presentation. Written comments should be received in the NCADAC DFO's Office by June 7, 2012 to provide sufficient time for NCADAC review. Written comments received by the NCADAC DFO after June 7, 2012 will be distributed to the NCADAC, but may not be reviewed prior to the meeting date.

Special Accommodations: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dr. Cynthia Decker (301–563–6162, *Cynthia.decker@noaa.gov*) by June 7, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Designated Federal Official, National Climate Assessment and Development Advisory Committee, NOAA OAR, R/SAB, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov*; or visit the NCADAC Web site at *http://www.nesdis.noaa.gov/NCADAC/index.html.*

Dated: May 25,2012.

Terry Bevels,

Acting Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2012–13328 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

New England Fishery Management Council (NEFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Groundfish and Scallop Committees on June 18, 2012 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, June 18, 2012 at 12:30 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn by the Bay, 88 Spring Street, Portland, ME 04101; telephone: (207) 775–2311; fax: (207) 761–8224.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The NEFMC's Groundfish and Scallop Oversight Committees will hold a joint meeting. The Committees will discuss the low fishing year 2012 annual catch limit (ACL) for Georges Bank yellowtail flounder and will develop recommendations for the Council on how to mitigate the impacts of this restrictive catch. The Committees may discuss regulatory measures such as gear requirements, possession limits or other restrictions on fishing activity, as well as possible adjustments to sub-ACLs of Georges Bank yellowtail flounder. They may also discuss modifications to the way groundfish and scallop accountability measures are implemented. Committee discussions will not be limited solely to actions that the Council may take. They may also develop recommendations for actions by the National Marine Fisheries Service, science—industry partners or suggestions for the Transboundary Management Guidance Committee. Any recommendations will be forwarded to the Council at a future date. Other business may be discussed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 29, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–13273 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC031

Takes of Marine Mammals Incidental to Specified Activities; Construction and Race Event Activities for the 34th America's Cup in San Francisco Bay, CA

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from the America's Cup Event Authority (ACEA) and the Port of San Francisco (Port) for an Incidental Harassment Authorization (IHA) to take marine mammals incidental to activities associated with the 34th America's Cup. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to ACEA and the Port to take, by Level B harassment only, several species of marine mammals during the specified activity.

DATES: Comments and information must be received no later than July 2, 2012.

ADDRESSES: Comments on the application should be addressed to Tammy Adams, Acting Chief, Permits and Conservation Division, Office of

Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Laws@noaa.gov.* NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

Instructions: All comments received are a part of the public record. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

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.* Supplemental documents may be found at the same web address. Documents cited in this notice may also be viewed, by appointment only, at the aforementioned physical address.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

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 small numbers 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 published in the **Federal Register** to provide public notice and initiate a 30-day comment period.

Authorization for incidental taking 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 United States can apply for an authorization to incidentally take small numbers of marine mammals by Level B harassment as defined below. 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 issue or deny the authorization. If authorized, an IHA may be effective for a maximum of one year from date of issuance.

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].''

Summary of Request

NMFS received an application on January 20, 2012, from ACEA and the Port requesting issuance of an IHA for the taking, by Level B harassment only, of marine mammals incidental to activities conducted in support of the 34th America's Cup (AC34) in San Francisco, California. Following revisions requested by NMFS, the applicants submitted an adequate and complete application on April 27, 2012. A series of yacht races will be held in San Francisco Bay during 2012–13. The proposed activities include the installation of temporary dock facilities along with certain permanent improvements at the proposed venue sites to accommodate the AC34 events; these activities would require pile driving and would be conducted in advance of AC34 events. Components of the AC34 race events that may result in harassment of marine mammals include helicopter operations and fireworks displays. Authorization of incidental take has been requested for the harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), harbor porpoise (*Phocoena phocoena*), and elephant seal (*Mirounga angustirostris*). Based on the best available information, the applicants are requesting authorization to incidentally harass up to 14,063 California sea lions, 686 harbor seals, 63 harbor porpoises, and two northern elephant seals during the 1-year time span of the proposed IHA. The proposed IHA would be valid for one year from the date of issuance. Any activities that may result in incidental harassment of marine mammals that fall outside of the 1-year period of validity would require subsequent authorization.

Description of the Specified Activity

The America's Cup is a series of match races between two yachts. One yacht, known as the defender, represents the yacht club that currently holds the America's Cup trophy while the second yacht, known as the challenger, represents the yacht club that is challenging for the cup. AC34, to be held in San Francisco Bay (the Bay), consists of three main stages: The America's Cup World Series; the America's Cup Challenger Selection Series (CCS; also referred to as the Louis Vuitton Cup), and the America's Cup Finals. The America's Cup World Series is a regular circuit of regattas (held in venues around the world) which allows the teams to prepare for the CCS. Regattas in the Bay will be held in August and October 2012. Subsequently, a challenger must win the CCS to earn the right to race the defender in the AC34 finals. The challenger series and the finals will be held in the Bay in September 2013.

A number of project sites, or venues, are planned to accommodate these events. These venues would provide all aspects of AC34 facilities and services, including team bases and operations, support space, media operations, hospitality services, sponsored commercial space, and entertainment and spectator venues. Construction of these venues would require pile driving for the installation of temporary floating docks as well as for permanent improvements to existing waterfront facilities. Helicopters would be used for AC34 2012 and 2013 races to serve broadcasting and media operations. Commercial-grade fireworks displays are proposed at the opening and closing ceremonies for the 2013 America's Cup events only.

Region of Activity

The proposed activity would occur in San Francisco Bay and at multiple locations along the San Francisco waterfront between Pier 80 and Aquatic Cove. The actual race area is within the Western Central San Francisco Bay, flanked by the Golden Gate, Angel Island, the North Shore of San

Francisco, and south to Treasure Island and the San Francisco-Oakland Bay Bridge (SFOBB). Figures 1–2 of the application provide a vicinity map and show the locations where construction activities would occur along the San Francisco waterfront and the designated race area where racing events will occur within the Bay. San Francisco Bay and the adjacent Sacramento-San Joaquin Delta make up a large, complex, and highly dynamic estuary, one of the largest estuarine systems on the continent. The area where the proposed activities would occur is a heavily urbanized area with substantial industrial activity.

Circulation within the Bay is dependent upon tides, river flow, winds, and bathymetry; the Bay also receives inputs from stormwater runoff and wastewater from municipal and industrial sources that vary depending on the location and seasonal weather patterns. Project activities are located within what is described as the Central Bay, which is influenced by these hydrodynamic conditions. Current and wave patterns exhibited along the San Francisco waterfront and within the Central Bay are largely generated by the tides interacting with bottom and shoreline configurations. The area where construction and races will occur is saline and dominated by ocean influences. However, during periods of significant runoff, especially from the Sacramento-San Joaquin River system, substantial freshwater migrates through San Pablo Bay and into San Francisco Bay. This inundation of freshwater can temporarily reduce the salinity of waters in the project vicinity to substantially less than ocean water (Bay Institute, 2003).

Intertidal habitats in the Central Bay, or those that lie between low and high tides, include sandy beaches, natural and artificial rock (riprap), concrete bulkheads, concrete, composite and wood pier pilings, and mud flats. The Central Bay's proximity to the Golden Gate and Pacific Ocean has resulted in an intertidal zone inhabited by many coastal as well as estuarine species. Pilings, riprap, and pipelines are a dominant feature along the San Francisco waterfront. In subtidal areas, the Central Bay contains both soft sediment and hard substrate habitat. Soft bottom substrate ranges between soft mud with high silt and clay content and areas of coarser sand. The predominant seafloor habitat in the project area is unconsolidated soft sediment composed of combinations of mud/silt/clay, sand, and pebble/cobble, with varying amounts of intermixed shell fragments. Exposure to wave and current action, temperature, salinity, and light penetration determine the composition and distribution of organisms within these soft sediments (NOAA, 2007).

Various contaminants are transported into San Francisco Bay by an assortment of sources: urban uses, industrial outfalls, municipal wastewater outfalls, municipal stormwater, upstream farming, upstream historic and current mining discharges, legacy pollutants, and various other pollutant sources. Contaminants are introduced into the Central Bay primarily through runoff, combined sewer overflow, stormwater, spills and leaks, and remobilization from sediment into the overlying water column. The San Francisco Regional Water Quality Control Board listed the Central Bay as an impaired water body. Under Section 303(d) of the Clean Water Act, impaired waters are defined as those that do not meet water quality standards, even after point and non-point sources of pollution have had pollution control technologies implemented. The pollutants listed for the Central Bay include chlordane, dichlorodiphenyltrichloroethane (DDT), dieldrin, dioxin compounds, exotic species, furan compounds, mercury, polychlorinated biphenyls (PCBs), and selenium (Bay Institute, 2003). Pollutant concentrations vary seasonally and annually, dependent upon their specific source and degradation characteristics. Contaminants, such as ammonia, copper, and legacy pesticides, have decreased over recent years due to cleanup efforts and natural attenuation (SFEI, 2010; Bay Institute, 2003). Noise from urban and industrial activity may be considered an additional pollutant in the Bay; underwater ambient sound levels have been measured at 133 dB rms in the nearby Oakland Outer Harbor.

Pile Driving

Temporary floating docks would be installed utilizing 18-in (457-mm) steel pipe piles; all piles for floating docks would be installed via vibratory pile driver only. Floating docks would be located at Piers 80, 30–32, 14 North, 9, 23 North and South, 27 South, 29 and adjacent to Marina Green (please see Figure 1 of the AC34 application for location overview and Figures 3–9 for detailed location diagrams). The floating docks would be installed at various stages starting in 2012 and extending through the spring of 2013. Floating docks would be made of concrete, aluminum, or lighter-duty timber pre-cast sections with maximum widths of 8–16 ft (2.4–4.9 m). The dock system modules would be fabricated offsite and towed to specific locations via material barges. The sections would then be assembled and located, and guide piles driven to fix the dock system in place. A total of 244 18-in steel pipe piles would be installed for temporary floating docks; project engineers estimate that a maximum of eight piles may be installed per day. Accounting for unforeseen delays, installation of floating docks is expected to require approximately 2 weeks at each location (with varying amounts of actual pile driving days), although the time may vary depending on number of piles to be driven and any unforeseen difficulties.

In addition, repairs and improvements are proposed for Pier 19 (see Figure 8 of the application for a site plan). Pier 19 repairs would require driving of 224 12-in (305-mm) wood piles; these would be installed via impact hammer with an estimated maximum production rate of eight piles per day. Pier 19 repairs are expected to require approximately 28 days over the course of 4 months. Table 1 details the extent and location of pile driving activity.

Location	Number of piles
Pier 80	26
Pier 32 South	27
Pier 14 North	44
Pier 9	15
Pier 23 North	21
Pier 23 South	16
Pier 27	55
Pier 29 East	5
Pier 29 North	21
Marina Green offshore	14
Total piles for vibratory installation	244
Pier 19 *	224

* Pier 19 repairs would require impact driving of 12-in wood piles. All other piles would be 18-in steel piles installed with vibratory driver.

Depending on the location and logistics, piles would likely be installed from existing deck structures using land-based pile driving equipment or from a barge. Impact pile driving would not occur concurrently with any other known project using an impact hammer; however, there would be no restriction on concurrent vibratory driving. Vibratory pile driving for installation of floating docks is planned for July through August 2012 and approximately March through June of 2013, while installation of 12-inch wood piles at Pier 19 is planned for sometime between July and December 2012.

Race Events

Two World Series events will occur in the Bay in August and October of 2012. Each event will run up to 9 days with 4 race days for each series. There will be multiple races per day. The World Series races will be followed in 2013 by the CCS to determine which of the challenger teams advances to compete with the defender in the final. The overall timeframe for the CCS races will occur over an approximately 81-day duration between July to early September of 2013 with approximately 44 days of racing. The final races would occur in mid-September over an approximately 2-week period.

The racing yachts will be launched from either Pier 80 or Piers 30–32 Team Base locations. The yachts do not have engines; therefore, they will either be sailed or be towed to and from their launch area and the race area. During racing, yachts are required under the rules to remain within the race area. Each race is scheduled to last under an hour. These racing yachts are highly engineered in their design and production and have been specifically designed to be very maneuverable at both high and low speeds. Due to the efficient design of the hulls the yachts are very quiet and leave almost no wake.

Personal watercraft or rigid inflatable boats will be used for umpiring the races. Two umpires will follow the racing yachts and remain within the course limits during the race. They will launch from either Marina Green or Pier 80 and power to the race course. As proposed by the project sponsors, the Course Marshal would establish a race course for each racing day within the conditions and parameters established under the U.S. Coast Guard's (USCG) Special Local Regulations (SLR), final environmental analysis documents, and various regulatory approvals and permits. Attendants would be at the starting line and each turning mark, and umpires and several support boats would be out on the course. All race management personnel are tasked with scanning for debris or other obstructions that could possibly damage or impede fair play. Although unlikely, in the event that a large marine mammal (i.e., a whale) is observed, the Course Marshal would postpone or abandon the race depending on the direction the whale is moving or its presence within or near the race course. These actions would be taken to ensure the safety of the marine mammal as well as the racing boats and crews.

San Francisco Bay is host to regular and frequent sailing regattas, and there are no known records of boat strikes by race boats. Marine mammals present in the Bay typically avoid boats that are underway and that are traveling at high speeds. The high speed ferries that frequent Bay waters, which are predominantly multi-hull boats like the planned AC34 race boats, travel at speeds in excess of 20 kn and regularly transit across the western part of the Central Bay (where AC34 races are proposed to occur at speeds of up to 36 kn). These vessels have not been reported to be involved in any known marine mammal strikes.

Spectator vessels would likely be moving at much slower speeds (under 10 kn) while congregated in the western part of the Central Bay to observe the races. USCG regulations are explicit that the operator (captain) of a vessel is responsible for the safe operation of that vessel at all times. A Water and Air Traffic Plan will be created for AC34 events, which will provide Information for Visiting Mariners to Reduce Impacts on Bay Habitats and Taxa (''Notice to Boaters''). The Notice to Boaters will be distributed to the public and will encourage methods for boaters to avoid any harassment (including collisions) with marine mammals. A comprehensive dissemination plan will coordinate distribution of the Water and Air Traffic Plan to multiple marinas and yacht clubs in California and spectator vessels entering the Bay. No incidental harassment of marine mammals is anticipated as a result of race activities.

Helicopter Operations

Helicopters would be used for AC34 2012 and 2013 races to serve broadcasting and media operations. The helicopters following each race would fly between 100 and 400 feet above sea level (asl; 30–122 m) within the race area. The helicopters would normally perform coverage operations for up to 3 hours on a tank of fuel and would likely require refueling once per day. The coordination of the helicopters during race events would be such that one or two would stay above 400 ft asl and other helicopters would fly between 100–400 ft asl to more closely cover the racing action. The helicopters would be choreographed and move around the racecourse to anticipate the next important stage of each race for filming. To protect sensitive avian species, the project sponsors would restrict helicopter operations such that they would avoid the air space within at least 1,000 ft (vertically and horizontally; 305 m) around Alcatraz Island and Crissy Beach Wildlife Protection Area; these measures would also mitigate any possibility of incidental harassment of marine mammals at these locations. During flight operations, helicopters would minimize impacts to pinnipeds at Pier 39 by avoiding low flying (less than 100 ft asl). Final details of helicopter operations would be provided in the Water and Air Traffic Plan that would be developed and implemented for AC34.

Fireworks Displays

Commercial grade fireworks displays are planned at the opening and closing ceremonies for the 2013 AC events only; therefore, it is likely that no fireworks events would occur during the 1-year period of validity for this proposed IHA. However, this potentially harassment-inducing activity is precautionarily considered here to provide the event organizers with flexibility in scheduling such events. The location of the fireworks barge would be near Piers 27–29 and up to four fireworks displays would occur lasting 30–45 minutes each. It is anticipated that aerial shells would be launched from tubes (called mortars), using black powder charges, to altitudes of 200 to 1,000 ft (61–305 m) where they would explode and ignite internal burst charges and incendiary chemicals. Most of the incendiary elements and shell casings burn up in the atmosphere; however, portions of the casings and some internal structural components and chemical residue fall back to the ground or water, depending on prevailing winds.

The project sponsors have coordinated and would continue to coordinate with the USCG regarding limitations on the location, frequency and duration of the fireworks to minimize potential environmental impacts. Any proposed fireworks displays would be subject to approval by the USCG through the USCG Marine Event Permit process.

Description of Sound Sources

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in Hz or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds and attenuate more rapidly in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically measured using the decibel (dB) scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that

accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Rms is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1975). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones. Underwater sound levels (''ambient sound'') are comprised of multiple sources, including physical (e.g., waves, earthquakes, ice, atmospheric sound), biological (e.g., sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (e.g., vessels, dredging, aircraft, construction). Even in the absence of anthropogenic sound, the sea is typically a loud environment. A number of sources of sound are likely to occur within San Francisco Bay, including the following (Richardson *et al.,* 1995):

• *Wind and waves:* The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient noise levels tend to increase with increasing wind speed and wave height. Surf noise becomes important near shore, with measurements collected at a distance of 8.5 km (5.3 mi) from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions.

• *Precipitation noise:* Noise from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times.

• *Biological noise:* Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.

• *Anthropogenic noise:* Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies (Richardson *et al.,* 1995). Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they would attenuate (decrease) rapidly (Richardson *et al.,* 1995).

In-water construction activities associated with the project would include impact and vibratory pile driving. The sounds produced by these activities fall into one of two sound types: Pulsed and non-pulsed (defined in next paragraph). The distinction between these two general sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (e.g., Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.,* (2007) for an in-depth discussion of these concepts.

Pulsed sounds (e.g., explosions, gunshots, sonic booms, and impact pile driving) are brief, broadband, atonal transients (ANSI, 1986; Harris, 1998) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a decay period that may include a period of diminishing, oscillating maximal and minimal pressures. Pulsed sounds generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulse (intermittent or continuous sounds) can be tonal, broadband, or both. Some of these non-pulse sounds can be transient signals of short duration but without the essential properties of pulses (e.g., rapid rise time). Examples of non-pulse sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper, 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Caltrans, 2009). Rise time is slower, reducing the probability and severity of injury (USFWS, 2009), and sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.,* 2001).

Ambient Sound

The underwater acoustic environment consists of ambient sound, defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995). The ambient underwater sound level of a region is defined by the total acoustical energy being generated by known and unknown sources, including sounds from both natural and anthropogenic sources. The sum of the various natural and anthropogenic sound sources at any given location and time depends not only on the source levels (as determined by current weather conditions and levels of biological and industrial or other anthropogenic activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, the ambient sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). In San Francisco Bay, the average broadband ambient underwater sound levels were measured at 133 dB re 1μPa in the Oakland Outer Harbor (Strategic Environmental Consulting, Inc., 2004).

Sound Attenuation Devices

Sound levels can be greatly reduced during impact pile driving using sound attenuation devices. There are several types of sound attenuation devices including bubble curtains, cofferdams, and isolation casings (also called temporary noise attenuation piles [TNAP]), and cushion blocks. Cushion blocks, which are commonly used attenuation devices for timber piles, consist of materials (e.g., wood, nylon) placed atop piles during impact pile driving activities to reduce source levels. Typically sound reduction performance is variable, but can range from 4 to a maximum of 26 dB. Both environmental conditions and the characteristics of the sound attenuation device may influence the effectiveness of the device.

Sound Thresholds

Since 1997, NMFS has used generic sound exposure thresholds to determine when an activity in the ocean that produces sound might result in impacts to a marine mammal such that a take by harassment might occur (NMFS, 2005). To date, no studies have been conducted that examine impacts to marine mammals from pile driving sounds from which empirical sound thresholds have been established. Current NMFS practice regarding exposure of marine mammals to sound is that cetaceans and pinnipeds exposed to impulsive sounds of 180 and 190 dB rms or above, respectively, are considered to have been taken by Level A (i.e., injurious) harassment. Behavioral harassment (Level B) is considered to have occurred when marine mammals are exposed to sounds at or above 160 dB rms for impulse sounds (e.g., impact pile driving) and 120 dB rms for continuous sound (e.g., vibratory pile driving), but below injurious thresholds. NMFS uses these levels as guidelines to estimate when harassment may occur.

There is a general lack of information regarding driving of timber piles in the available literature. However, underwater sound produced by impact driving of 12-in timber piles with use of cushion blocks, as is planned for the proposed activity, has been measured in the Bay area at 170 dB rms at 10 m (Caltrans, 2007). Caltrans (2007) has also measured SPLs associated with vibratory pile driving in the Bay area; vibratory driving for 12-in steel pipe piles was measured at 155 dB rms and for 36-in steel pipe piles at 170 dB rms, both at 10 m distance. Averaging these values provides a conservative estimate of 162.5 dB rms for 18-in piles, as would be used in the proposed activities. Using practical spreading loss—4.5 dB reduction in level for each doubling of distance from the source—to approximate site-specific sound propagation characteristics, these data provide estimated source levels of 185 dB rms for impact driving of 12-in timber piles with use of a cushion block and 177.5 dB rms for vibratory driving of 18-in steel pipe piles. On the basis of these estimated source levels, the estimated distances to various thresholds (presented for reference only) are presented in Table 2. Impact pile driving activity would not produce SPLs of sufficient intensity to potentially cause injury to pinnipeds (i.e., 190 dB rms), and SPLs produced by vibratory pile driving would be low enough to preclude the potential for injury to any marine mammal (i.e., below 180 dB rms).

TABLE 2—ESTIMATED DISTANCES TO UNDERWATER MARINE MAMMAL SOUND THRESHOLDS DURING PILE DRIVING

Threshold	Distance (m)
Impact driving, pinniped injury (190 dB)	n/a
Impact driving, cetacean injury (180 dB)	2.2
Impact driving, disturbance (160 dB)	46
Impact driving, airborne disturbance (100 dB)	5.3
Impact driving, airborne disturbance (90 dB)	17
Vibratory driving, pinniped injury (190 dB)	n/a
Vibratory driving, cetacean injury (180 dB)	n/a
Vibratory driving, disturbance (133 dB [1])	926
Vibratory driving, airborne disturbance (100 dB)	6.8
Vibratory driving, airborne disturbance (90 dB)	22

[1] Distance to disturbance zone calculated on basis of ambient sound measurement of 133 dB rms in vicinity of San Francisco waterfront. Marine mammals present in the project area are likely acclimated to non-pulsed sound at levels well above NMFS' threshold for harassment for these types of sound (i.e., 120 dB rms).

Precise exposure thresholds for airborne sounds have not been determined; however, monitoring of marine mammal reactions to rocket launches at Vandenberg Air Force Base (VAFB) has indicated that behavioral harassment may occur for harbor seals at received levels of 90 dB re 20 µPa, while similar reactions may occur at levels of 100 dB re 20 µPa for other pinniped species. There is a general lack of data regarding airborne SPLs from similar pile driving events; however, acoustic monitoring of pile driving events conducted recently by the U.S. Navy in Hood Canal provides approximate source levels of 114.5 and 116.7 dB rms for impact driving and vibratory driving, respectively, of steel piles of 24–48 in diameter. Impact driving of 12-in timber piles with a cushion block would produce sound at somewhat lower intensity. It is extremely unlikely that pinnipeds would be exposed to airborne SPLs above the relevant thresholds, given the source levels and likely distance between pinnipeds and the activity. Please see Table 2 for estimated distances to thresholds.

Description of Marine Mammals in the Area of the Specified Activity

Marine mammals with confirmed occurrences in San Francisco Bay are the harbor seal, California sea lion, harbor porpoise, elephant seal, gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera noveangliae*), and sea otter (*Enhydra lutris*). The gray whale is typically observed migrating southward along the Central California coast between December and February and then again heading northward between February and July. Observations in San Francisco Bay are typically made from December through May, during the whales' coastal migration (USACE, 2011). Pile driving activities could overlap with the southbound migrating whales; however, southbound migrants typically travel farther offshore and are less likely to enter into the Bay. Humpback whales are considered extremely rare in San Francisco Bay and are highly unlikely to be present in the action area. Sea otters are under the jurisdiction of the U.S. Fish and Wildlife Service. Therefore, these three species are not discussed in detail.

Typically, there is very little marine mammal activity in the waters immediately adjacent to the San Francisco waterfront, where pile driving activities are proposed. The general lack of marine mammal activity at the San Francisco waterfront—other than a California sea lion haul-out at Pier 39—is likely due to the high level of human activity, both urban and industrial in nature. The primary route for shipping traffic into and out of the Port of San Francisco and Port of Oakland is located between the San Francisco waterfront and Angel Island, approximately 5 km to the north. Amongst other uses, tugboat activities occur at Piers 15 and 17, ferry traffic around Pier 1 and along the waterfront to Piers 39 and 45,

marine shipping and cargo transport to Piers 80 A–D and Piers 92 and 94–96, and cruise vessel traffic at Piers 27 and 35 (see Figures 1–2 of the application for relative locations). As noted previously, ambient underwater sound has been measured at 133 dB rms, significantly above NMFS threshold for behavioral harassment from non-pulsed sound (120 dB).

Harbor seals and California sea lion are the most common marine mammals in the Bay, and may be found at multiple sites either resting or foraging. There are no documented haul-outs in the vicinity of proposed construction or race events other than those discussed in succeeding sections. Various sources have observed pinnipeds resting on channel marker buoys throughout the Bay, on the shorelines of Alcatraz or Angel Island and along the San Francisco waterfront but these locations have not been defined as haul-out sites.

Harbor Seals

Harbor seals in the eastern Pacific inhabit near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. In California, approximately 400–600 harbor seal haul-outs are widely distributed along the mainland and on offshore islands, including intertidal sandbars, rocky shores and beaches (Hanan, 1996).

The harbor seal population in California is estimated at approximately 34,233 (Carretta *et al.,* 2007). Counts of harbor seals in California showed a rapid increase from approximately 1972 to 1990, though net production rates appeared to decline from 1982 to 1994. The decrease in population growth rate has occurred at the same time as a decrease in human-caused mortality and may be an indication that the population is reaching its environmental carrying capacity. Harbor seals are not listed under the ESA and are not considered depleted or designated as a strategic stock under the MMPA.

In general, harbor seals do not undertake long migrations, but do travel 300–500 km on occasion to find food or suitable breeding areas (Herder, 1986). Harbor seals are rarely found in pelagic waters and typically stay within the tidal and intertidal zones. On land, harbor seals haul out on rocky outcrops, mudflats, sandbars and sandy beaches with unrestricted access to water and with minimal human presence. Haul-out sites are important as resting sites for harbor seals, who feed opportunistically in shallow waters on fish, crustaceans, and cephalopods. Harbor seals are typically solitary while foraging, although small groups have been observed. They normally choose isolated sites for pupping.

The harbor seal is a permanent resident in San Francisco Bay. The current Bay-Delta harbor seal population is estimated at between 500 and 700 individuals (Green *et al.,* 2006). Harbor seals have established haul-out sites at Castro Rocks in San Pablo Bay, Yerba Buena Island (YBI) in the Central Bay, and Mowry Slough in the South Bay (NOAA, 2007). The south side of YBI, approximately 2.4 km distant from the nearest project site, is the nearest haul-out area and the only one that may potentially be affected by project activities. The YBI haul-out is approximately 3.2 km from Pier 19, the only location where impact pile driving is proposed.

Although not historically identified as a pupping site for harbor seals, recent observations at the year-round seal haul-out on the south side of YBI suggest that occasional pupping does occur at this location (Green *et al.,* 2006). Pupping season for harbor seals in San Francisco Bay spans approximately March 15th through May 31st, with pup numbers generally peaking in late April or May. Individual seals may occasionally haul out farther to the west and southwest of the main haul-out at YBI site, depending on space availability and conditions at the main haul-out area. Harbor seals present near the San Francisco waterfront would likely be transiting to and from YBI or opportunistically foraging.

California Sea Lions

California sea lions range from southern Mexico to British Columbia, Canada. The entire U.S. population has been estimated at 238,000, and grew at a rate of approximately 6 percent annually between 1975 and 2005 (Carretta *et al.,* 2007). Sea lions can be found at sea from the surf zone out to nearshore and pelagic waters. On land, sea lions are found resting and breeding in groups of various sizes, and haul out on rocky surfaces and outcroppings and beaches, as well as on manmade structures such as jetties. Sea lions prefer haul-out sites and rookeries near abundant food supplies, with easy access to water, although they may occasionally travel up rivers and bays in search of food. California sea lions are not listed under the ESA and are not considered depleted or designated as a strategic stock under the MMPA.

California sea lions exhibit seasonal migration patterns organized around their breeding activity. Sea lions breed at large rookeries in the Channel Islands in southern California, and on both sides of the Baja California peninsula, typically from May to August. Females tend to remain close to the rookeries throughout the year, while males migrate north after the breeding season in the late summer before migrating back south to the breeding grounds in the spring (CDFG, 1990). No established rookeries are known north of Point Reyes, California, but large numbers of subadult and non-breeding or post-breeding male California sea lions are found throughout the Pacific Northwest. There is a mean seasonal pattern of peak numbers occurring in the northwest during fall, but local areas show high annual and seasonal variability. Sea lions feed on fish and cephalopods. Although solitary feeders, sea lions often hunt in groups, which can vary in size according to the abundance of prey (CDFG, 1990).

California sea lions are typically found within the San Francisco Bay region while migrating to and from their primary breeding areas in the Channel Islands, and in association with herring and salmon spawning migrations. Sea lions haul out on offshore rocks, sandy beaches, floating docks, wharfs, vessels, and other man-made structures in the Bay, where winter numbers have historically been observed to be over 500 animals (Goals Project, 2000). Although some animals may remain in the Bay year-round, sea lions typically begin to appear in August. Numbers then increase gradually before a sudden increase in December, when the herring run results in greatest numbers (Dec–Feb). Following the winter peak, numbers decline to just a few animals by summer months.

California sea lions are typically observed at Angel Island and occupying the docks near Pier 39, which is the largest haul-out in San Francisco Bay (Bauer, 1999). As many as 800 sea lions have been counted at Pier 39, although the aggregations have decreased in size in recent years, possibly coincident with a fluctuating decrease in the herring population in the Bay. No other sea lion haul-out sites have been identified in the Bay, there are no known breeding sites within San Francisco Bay, and no pupping has been observed at Pier 39 site or at any other site in San Francisco Bay under normal conditions (USACE, 2011). Sea lions present at the Pier 39 haul-out are described anecdotally as being well-acclimated to human presence and activity.

Pier 27 and Marina Green—both less than 1.6 km away from Pier 39—are the closest locations where vibratory pile driving would be conducted. Pier 19, where impact pile driving would occur, is also less than 1.6 km distant.

California sea lions may forage in the waters of and adjacent to the sites where construction is proposed and where the race events would occur.

Harbor Porpoise

Harbor porpoises belong to the Phocoenid (porpoise) family and are found extensively along the Pacific U.S. coast. Harbor porpoises are small, with males reaching average lengths of approximately 5 ft (1.5 m); Females are slightly larger with an average length of 5.5 ft (1.7 m). The average adult harbor porpoise weighs between 135–170 lb (61–77 kg). Harbor porpoises have a dark grey coloration on their backs, with their belly and throats white. They have a dark grey chin patch and intermediate shades of grey along their sides.

Harbor porpoises are generally found in cool temperate to subarctic waters over the continental shelf in both the North Atlantic and North Pacific (Read, 1999). This species is seldom found in waters warmer than 17 °C (63 °F; Read, 1999) or south of Point Conception (Hubbs, 1960; Barlow and Hanan, 1995). Harbor porpoises can be found year-round primarily in the shallow coastal waters of harbors, bays, and river mouths (Green *et al.,* 1992). Along the Pacific coast, harbor porpoises occur from Monterey Bay, California to the Aleutian Islands and west to Japan (Reeves *et al.,* 2002).

Harbor porpoises are non-social animals usually seen in small groups of two to five animals. Little is known about their social behavior. Harbor porpoises can be opportunistic foragers but primarily consume schooling forage fish (Osmek *et al.,* 1996; Bowen and Siniff, 1999; Reeves *et al.,* 2002). Females reach sexual maturity at three to four years of age and may give birth every year for several years in a row. Calves are born in late spring (Read, 1990; Read and Hohn, 1995).

Recent preliminary genetic analyses of samples ranging from Monterey, CA to Vancouver Island, BC indicate that there is small-scale subdivision within the U.S. portion of this range (Chivers *et al.,* 2002). Although geographic structure exists along an almost continuous distribution of harbor porpoises from California to Alaska, stock boundaries are difficult to draw because any rigid line is generally arbitrary from a biological perspective. Nevertheless, based on genetic data and density discontinuities identified from aerial surveys, NMFS identifies eight stocks in the Northeast Pacific Ocean. Pacific coast harbor porpoise stocks include: (1) Monterey Bay, (2) San Francisco-Russian River, (3) northern California/southern Oregon, (4) Oregon/Washington coastal, (5) inland Washington, (6) Southeast Alaska, (7) Gulf of Alaska, and (8) Bering Sea. Only individuals from the San Francisco-Russian River stock are likely to occur in the project area. Based on 2002–07 aerial surveys under good survey conditions the estimate of abundance for this stock is 9,189 animals (Carretta *et al.,* 2009). Abundance of the stock has steadily increased since 1993. The Golden Gate Cetacean Research Organization (GGCR) has suggested that the species is returning to San Francisco Bay after a general absence of approximately 65 years (GGCR, 2010). This re-emergence is not unique to San Francisco Bay, but rather may be indicative of harbor porpoise increases and expansions in general along the west coast. Harbor porpoises are not listed under the ESA and are not considered depleted or designated as a strategic stock under the MMPA.

Harbor porpoises, although not commonly sighted in San Francisco Bay, have been observed traveling in small pods of two to three animals in the Central Bay and below the Golden Gate Bridge on occasion and in some instances displaying mating behavior. Recent observations of harbor porpoises have been reported by GGCR researchers off Cavallo Point, outside Raccoon Strait between Tiburon and Angel Island, off Fort Point and as far into the Bay as Carquinez Strait (Perlman, 2010). In addition, the California Department of Transportation reported observing a single harbor porpoise in 2000 in the vicinity of YBI during monitoring associated with bridge construction. Harbor porpoise presence in the project area is nevertheless considered rare.

Elephant Seals

Populations of northern elephant seals in the U.S. and Mexico are derived from a few tens or hundreds of individuals surviving in Mexico after being nearly hunted to extinction (Stewart *et al.,* 1994). Given the recent derivation of most rookeries, no genetic differentiation would be expected. Although movement and genetic exchange continues between rookeries, most elephant seals return to their natal rookeries when they start breeding (Huber *et al.,* 1991). The California breeding population is now demographically isolated from the Baja California population and is considered to be a separate stock. Based on the estimated 35,549 pups born in California in 2005, the California stock was estimated at approximately 124,000 (Carretta *et al.* 2009). Based on trends in pup counts, northern elephant seal colonies were continuing to grow in California through 2005 (Carretta *et al.,* 2009). The elephant seal is not listed under the ESA and is not considered depleted or designated as a strategic stock under the MMPA.

Northern elephant seals breed and give birth in California and Baja California, Mexico, primarily on offshore islands from December to March (Stewart *et al.,* 1994; Stewart and Huber, 1993). Gestation lasts around 11 months, and pups are born in early winter from December to January. Northern elephant seals are polygamous; males establish dominance over large groups of females during the breeding season. Males feed near the eastern Aleutian Islands and in the Gulf of Alaska, and females feed further south (Stewart and Huber, 1993; Le Boeuf *et al.,* 1993). Adults return to land between March and August to molt, with males returning later than females. Adults return to their feeding areas again between their spring/summer molting and their winter breeding seasons.

Individual juvenile elephant seals have been reported entering the Bay in the past few years between March and August, with an occasional report in October and November. Elephant Seals do not have any established haul out sites in the Bay, but occasional sightings have occurred at Crissy Field, approximately 1 km from the nearest project site. Elephant seals are considered rare in the Bay.

Potential Effects of the Specified Activity on Marine Mammals

NMFS has determined that pile driving, as outlined in the project description, has the potential to result in behavioral harassment of marine mammals that may be swimming, foraging, or resting in the project vicinity while pile driving is being conducted. Behavioral disturbance is also possible when helicopter overflights or fireworks displays occur.

Marine Mammal Hearing

The primary effect on marine mammals anticipated from the specified activities would result from exposure of animals to underwater sound. Exposure to sound can affect marine mammal hearing or cause changes in behavior. When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data, Southall *et al.* (2007)

designate functional hearing groups for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

- Low frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 22 kHz;
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High frequency cetaceans (six species of true porpoises, four species of river dolphins, two members of the genus *Kogia,* and four dolphin species of the genus *Cephalorhynchus*): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and
- Pinnipeds in water: functional hearing is estimated to occur between approximately 75 Hz and 75 kHz, with the greatest sensitivity between approximately 700 Hz and 20 kHz.

As mentioned previously in this document, three pinniped and one cetacean species may occur in the proposed project area during the project timeframe. The harbor porpoise is classified as a high frequency cetacean (Southall *et al.,* 2007).

Underwater Sound Effects

Potential Effects of Pile Driving Sound—The effects of sounds from pile driving might generally result in one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). The effects of pile driving on marine mammals are dependent on several factors, including the size, type, and depth of the animal; the depth, intensity, and duration of the pile driving sound; the depth of the water column; the substrate of the habitat; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the received level and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. Shallow environments are typically more structurally complex, which leads to rapid sound attenuation. In addition, substrates that are soft (e.g., sand) would absorb or attenuate the sound more readily than hard substrates (e.g., rock) which may reflect the acoustic wave. Soft porous substrates would also likely require less time to drive the pile, and possibly less forceful equipment, which would ultimately decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species would be expected to result from physiological and behavioral responses to both the type and strength of the acoustic signature (Viada *et al.,* 2008). The type and severity of behavioral impacts are more difficult to define due to limited studies addressing the behavioral effects of sound on marine mammals. Potential effects from impulsive sound sources can range in severity, ranging from effects such as behavioral disturbance, tactile perception, physical discomfort, slight injury of the internal organs and the auditory system, to mortality (Yelverton *et al.,* 1973; O'Keefe and Young, 1984; DoN, 2001b).

Hearing Impairment and Other Physical Effects—Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.,* 1999; Schlundt *et al.,* 2000; Finneran *et al.,* 2002, 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Marine mammals depend on acoustic cues for vital biological functions, (e.g., orientation, communication, finding prey, avoiding predators); thus, TTS may result in reduced fitness in survival and reproduction, either permanently or temporarily. However, this depends on the frequency and duration of TTS, as well as the biological context in which it occurs. TTS of limited duration, occurring in a frequency range that does not coincide with that used for recognition of important acoustic cues, would have little to no effect on an animal's fitness. Repeated sound exposure that leads to TTS could cause PTS. PTS, in the unlikely event that it occurred, would constitute injury, but TTS is not considered injury (Southall *et al.,* 2007). It is unlikely that the project would result in any cases of temporary or especially permanent hearing impairment or any significant non-auditory physical or physiological effects for reasons discussed later in this document. Some behavioral disturbance is expected, but it is likely that this would be localized and short-term because of the short project duration.

Several aspects of the planned monitoring and mitigation measures for this project (see the ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'' sections later in this document) are designed to detect marine mammals occurring near the pile driving to avoid exposing them to sound pulses that might, in theory, cause hearing impairment. In addition, many cetaceans are likely to show some avoidance of the area where received levels of pile driving sound are high enough that hearing impairment could potentially occur. In those cases, the avoidance responses of the animals themselves would reduce or (most likely) avoid any possibility of hearing impairment. Non-auditory physical effects may also occur in marine mammals exposed to strong underwater pulsed sound. It is especially unlikely that any effects of these types would occur during the present project given the brief duration of exposure for any given individual and the planned monitoring and mitigation measures. The following subsections discuss in somewhat more detail the possibilities of TTS, PTS, and non-auditory physical effects.

Temporary Threshold Shift—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be stronger in order to be heard. In terrestrial mammals, TTS can last from minutes or hours to days (in cases of strong TTS). For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007).

Given the available data, the received level of a single pulse (with no frequency weighting) might need to be approximately 186 dB re 1 μPa^2-s (i.e.,

186 dB sound exposure level [SEL] or approximately 221–226 dB pk-pk) in order to produce brief, mild TTS. Exposure to several strong pulses that each have received levels near 190 dB re 1 µPa rms (175–180 dB SEL) might result in cumulative exposure of approximately 186 dB SEL and thus slight TTS in a small odontocete, assuming the TTS threshold is (to a first approximation) a function of the total received pulse energy. Source levels for the proposed activities are not expected to exceed 190 dB re 1 µPa rms.

The above TTS information for odontocetes is derived from studies on the bottlenose dolphin (*Tursiops truncatus*) and beluga whale (*Delphinapterus leucas*). There is no published TTS information for other species of cetaceans. However, preliminary evidence from a harbor porpoise exposed to pulsed sound suggests that its TTS threshold may have been lower (Lucke *et al.,* 2009). To avoid the potential for injury, NMFS has determined that cetaceans should not be exposed to pulsed underwater sound at received levels exceeding 180 dB re 1 µPa rms. As summarized above, data that are now available imply that TTS is unlikely to occur unless odontocetes are exposed to pile driving pulses stronger than 180 dB re 1 µPa rms.

Permanent Threshold Shift—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, while in other cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of sound can cause PTS in any marine mammal. However, given the possibility that mammals close to pile driving activity might incur TTS, there has been further speculation about the possibility that some individuals occurring very close to pile driving might incur PTS. Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals but are assumed to be similar to those in humans and other terrestrial mammals. PTS might occur at a received sound level at least several decibels above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise time. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as pile driving pulses as received close to the source) is at least 6 dB higher than the TTS threshold on a peak-pressure basis and probably greater than 6 dB (Southall *et al.,* 2007). On an SEL basis, Southall *et al.* (2007) estimated that received levels would need to exceed the TTS threshold by at least 15 dB for there to be risk of PTS. Thus, for cetaceans, Southall *et al.* (2007) estimate that the PTS threshold might be an M-weighted SEL (for the sequence of received pulses) of approximately 198 dB re 1 µPa^2-s (15 dB higher than the TTS threshold for an impulse). Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur auditory impairment or non-auditory physical effects.

Measured source levels from impact pile driving can be as high as 214 dB re 1 µPa at 1 m (3.3 ft). Although no marine mammals have been shown to experience TTS or PTS as a result of being exposed to pile driving activities, captive bottlenose dolphins and beluga whales exhibited changes in behavior when exposed to strong pulsed sounds (Finneran *et al.,* 2000, 2002, 2005). The animals tolerated high received levels of sound before exhibiting aversive behaviors. Experiments on a beluga whale showed that exposure to a single watergun impulse at a received level of 207 kPa (30 psi) p-p, which is equivalent to 228 dB p-p re 1 µPa, resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within four minutes of the exposure (Finneran *et al.,* 2002). Although the source level of pile driving from one hammer strike is expected to be much lower than the single watergun impulse cited here, animals being exposed for a prolonged period to repeated hammer strikes could receive more sound exposure in terms of SEL than from the single watergun impulse (estimated at 188 dB re 1 µPa^2-s) in the aforementioned experiment (Finneran *et al.,* 2002). However, in order for marine mammals to experience TTS or PTS, the animals have to be close enough to be exposed to high intensity sound levels for a prolonged period of time. Based on the best scientific information available, these SPLs are far below the thresholds that could cause TTS or the onset of PTS.

Disturbance Reactions

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007; Weilgart, 2007). Behavioral responses to sound are highly variable and context-specific. For each potential behavioral change, the magnitude of the change ultimately determines the severity of the response. A number of factors may influence an animal's response to sound, including its previous experience, its auditory sensitivity, its biological and social status (including age and sex), and its behavioral state and activity at the time of exposure.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003/04). Animals are most likely to habituate to sounds that are predictable and unvarying. The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. Behavioral state may affect the type of response as well. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003/04).

Controlled experiments with captive marine mammals showed pronounced behavioral reactions, including

avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic guns or acoustic harassment devices, but also including pile driving) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; Caltrans, 2001, 2006; see also Gordon *et al.,* 2004; Wartzok *et al.,* 2003/04; Nowacek *et al.,* 2007). Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds.

With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.,* 1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (e.g., pinnipeds flushing into water from haul-outs or rookeries). Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Caltrans 2001, 2006). Since pile driving typically occurs for short periods of time, and because marine mammals present at the San Francisco waterfront are likely acclimated to a loud environment and heavy urban and industrial usage of the area, it is unlikely to result in permanent displacement. Any potential impacts from pile driving activities could be experienced by individual marine mammals, but would not be likely to cause population level impacts, or affect the long-term fitness of the species.

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to be causing beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Habitat abandonment due to loss of desirable acoustic environment; and
- Cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Auditory Masking

Natural and artificial sounds can disrupt behavior by masking, or interfering with, a marine mammal's ability to hear other sounds. Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher levels. Chronic exposure to excessive, though not high-intensity, sound could cause masking at particular frequencies for marine mammals that utilize sound for vital biological functions. Masking can interfere with detection of acoustic signals such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction. If the coincident (masking) sound were man-made, it could be potentially harassing if it disrupted hearing-related behavior. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water pile driving is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. However, lower frequency man-made sounds are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey sound. It may also affect communication signals when they occur near the sound band and thus reduce the communication space of animals (e.g., Clark *et al.,* 2009) and cause increased stress levels (e.g., Foote *et al.,* 2004; Holt *et al.,* 2009).

Masking has the potential to impact species at population, community, or even ecosystem levels, as well as at individual levels. Masking affects both senders and receivers of the signals and can potentially have long-term chronic effects on marine mammal species and populations. Recent research suggests that low frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, and that most of these increases are from distant shipping (Hildebrand, 2009). All anthropogenic sound sources, such as those from vessel traffic, pile driving, and dredging activities, contribute to the elevated ambient sound levels, thus intensifying masking. However, the sum of sound from the proposed activities is confined in an area of inland waters that is bounded by landmass; therefore, the sound generated is not expected to contribute to increased ocean ambient sound.

The most intense underwater sounds in the proposed action are those produced by impact pile driving, although the proposed activity involves the striking of only relatively small diameter timber piles, meaning that source levels would be much lower than are typically produced by impact pile driving. Given that the energy distribution of pile driving covers a broad frequency spectrum, sound from these sources would likely be within the audible range of animals in the vicinity. Impact pile driving activity is relatively short-term, with rapid pulses occurring for short periods of time. The probability for impact pile driving resulting from this proposed action masking acoustic signals important to the behavior and survival of marine mammal species is likely to be negligible. Vibratory pile driving is also relatively short-term, producing sound from rapid oscillations. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area, coupled with high levels of ambient noise in the action area, would result in a negligible impact from masking.

Airborne Sound Effects

Marine mammals that occur in the project area could be exposed to airborne sounds associated with pile driving, helicopter overflights, or fireworks displays that have the potential to cause harassment, depending on their distance from pile

driving activities. Airborne pile driving sound would have less impact on cetaceans than pinnipeds because sound from atmospheric sources does not transmit well underwater (Richardson *et al.,* 1995); thus, airborne sound would only be an issue for hauled-out pinnipeds in the project area or those pinnipeds in the water but with their heads above water. Given the busy and loud environment within which the proposed activities would occur, and the degree of acclimatization displayed by pinnipeds at Pier 39, it is unlikely that airborne sound from pile driving, or sound alone from fireworks or helicopters, would cause behavioral responses similar to those discussed above in relation to underwater sound. However, anthropogenic sound could potentially cause pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon their habitat and move further from the source. Studies by Blackwell *et al.* (2004) and Moulton *et al.* (2005) indicate a tolerance or lack of response to unweighted airborne sounds as high as 112 dB peak and 96 dB rms.

Helicopter Operations and Fireworks Displays

Potential effects to pinnipeds could result from both acoustic (as described in the preceding section) and non-acoustic stimuli. It is generally difficult to ascertain whether pinnipeds displaying behavioral reactions to these activities are reacting to sound or to visual stimuli (e.g., physical presence of aircraft, shadow of aircraft, light from fireworks).

The functional hearing range for pinnipeds in air is 75 Hz to 30 kHz (Southall *et al.,* 2007). Richardson *et al.* (1995) note that dominant tones in noise spectra from helicopters are generally below 500 Hz, while Kastak and Schustermann (1995) state that the in air hearing sensitivity—which is generally less than the in-water hearing sensitivity for pinnipeds—decreases below 2 kHz, and that pinnipeds appear generally to be considerably less sensitive to airborne sounds below 10 kHz than are humans. There is a dearth of information on acoustic effects of helicopter overflights on pinniped hearing and communication (Richardson *et al.,* 1995) and to our knowledge, there has been no specific documentation of temporary threshold shift (TTS), let alone permanent threshold shift (PTS), in free-ranging pinnipeds exposed to helicopter operations during realistic field conditions.

Typical reactions of hauled-out pinnipeds to aircraft that have been observed include looking up at the aircraft, moving on land, or entering the water. Hauled out pinnipeds have been observed diving into the water when approached by a low-flying aircraft or helicopter (Richardson *et al.,* 1995). Richardson *et al.* (1995) note that responses can vary based on differences in aircraft type, altitude, and flight pattern. Additionally, a study conducted by Born *et al.* (1999) found that wind chill, time of day, and relative wind direction were factors in the level of response.

As for helicopter overflights, few data are available regarding pinniped reactions to fireworks displays, although there is information from monitoring of fireworks displays conducted by the Monterey Bay National Marine Sanctuary (MBNMS). In some display locations, marine mammals may avoid or temporarily depart the impact area during the hours immediately prior to the beginning of the fireworks display due to increased human recreational activities associated with the overall celebration event, and as a fireworks presentation progresses, most marine mammals generally evacuate the impact area. The proposed display locations are approximately 800–1,000 m from Pier 39, where California sea lions haul out during parts of the year.

The MBNMS has monitored commercial fireworks displays for potential impacts to marine life and habitats since 1993. Though monitoring techniques and intensity have varied over the years and visual monitoring of wildlife abundance and behavioral responses to nighttime displays is challenging, observed impacts have been consistent. In summary, nearly two decades of observing sea lion reactions to fireworks displays gives the following general observations: Sea lions (1) begin leaving the breakwater as soon as the fireworks begin; (2) clear completely off after an aerial salute or quick succession of loud effects; (3) usually begin returning within a few hours of the end of the display; and (4) are present on the breakwater at pre-firework numbers by the following morning. The loud sound bursts and pressure waves created by the exploding shells appear to cause more wildlife disturbance than the illumination effects. In particular, the percussive aerial salute shells have been observed to elicit a strong flight response in California sea lions in the vicinity of the impact area (within 800 m of the launch site). No signs of wildlife injury or mortality have ever been discovered as a result of managed fireworks displays. It is unclear whether observed reactions at Monterey would be applicable to animals at the San Francisco waterfront, where human activity, including fireworks, is more frequent and of greater intensity. It is possible that animals at Pier 39 would display lesser reactions to fireworks displays.

In 2007, MBNMS conducted acoustic monitoring for the City of Monterey Independence Day fireworks display. The fireworks display began with two sets of fireworks detonations and ended with a grand finale of multiple explosions after 20 minutes. The average sound level measured during the hour containing the fireworks display was 72.9 dB, approximately 14 dB greater than ambient levels recorded before the display. The loudest sound recorded during the event was associated with the detonation of a 10-in shell, and was measured at 133.9 dB (peak). Overall, sound generated during the display was low- to mid-frequency and ranged from 97 to 107 dB rms, while the majority of the fireworks detonations ranged from 112 to 124 dB rms.

Aerial shells produce flashes of light that can be brilliant (exceeding 30,000 candela) and can occur in rapid succession. Loud explosive and crackling sound effects stem primarily from salutes and bursting charges at altitude. Humans and wildlife on the ground and on the surface of the water may feel the sound waves and the accompanying rapid shift of ambient atmospheric pressure. Sound propagates further from high altitude shells than low altitude shells, thus ensonifying more surface area on the ground and water, as they are not blocked significantly by buildings and landforms. The sound from the lifting charge detonation is vectored upward through the mortar tube opening and reports as a dull thump to bystanders on the ground, far less conspicuous than the high-level aerial bursts. The intensity of an aerial show can be amplified by increasing the number of shells used, the pace of the barrage, and the length of the display.

Low-level devices reach a maximum altitude of 200 ft (61 m). The acute impact area can extend to 1 mi (1.6 km) from the center of the ignition point depending on the size and flight patterns of projectiles, maximum altitude of projectiles, the type of special effects, wind direction, atmospheric conditions, and local structures and topography. Low-level devices also produce brilliant flashes and fountains of light and sparks accompanied by small explosions, popping, and crackling sounds. Since

they are lower in altitude than aerial shells, sound and light effects impact a smaller area. Low-level devices do not typically employ large black powder charges as do aerial shells, but are often used in large numbers in concert with one another and in rapid succession, producing intense localized effects.

Regular rocket launches at VAFB, which produce sound and light somewhat similar to that produced by fireworks, do not appear to have had long-term effects on the harbor seal population there. The total population of harbor seals at VAFB has been estimated to be increasing at an annual rate of 12.6 percent, despite five to seven space vehicle launches per year. Thus, there appear to be only short-term disturbance effects to harbor seals as a result of launch noise (SRS Technologies, 2001). Harbor seals will temporarily leave their haul-out when exposed to launch noise; however, they generally return to the haul-out within one hour.

Based on the available information, any pinnipeds in the vicinity of these activities are only anticipated to have short-term behavioral reactions to the helicopter flying overhead or to fireworks displays. Those animals that do flee the haul-out would be anticipated to return shortly after the helicopter leaves the area or within hours of the fireworks display. Harassment as a result of exceedance of sound thresholds is likely not possible, as the distance between helicopters or fireworks displays and the Pier 39 haul-out would preclude such effects; in addition, if for some reason an animal were hauled out closer to the fireworks display it would likely flee before the loudest effects were discharged. On the basis of the preceding discussion, we have preliminarily determined that potential impacts to marine mammals would consist of no more than behavioral harassment of limited duration and limited intensity (i.e., temporary flushing at most).

Anticipated Effects on Habitat

No permanent detrimental impacts to marine mammal habitat are expected to result from the proposed activities. Pile driving may impact prey species and marine mammals by causing temporary avoidance or abandonment of the immediate area. Site conditions are expected to be substantively unchanged from existing conditions. In addition, local habitat as it exists is significantly degraded as a result of the history of urban and industrial activity. Overall, the proposed activity is not expected to cause significant or long-term adverse impacts on marine mammal habitat or to the prey base for marine mammals.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

Estimated distances to various sound thresholds were described previously under ''Sound Thresholds,'' and would be used to establish zones of influence (ZOIs) (described in following sections) to be used as mitigation measures for pile driving activities. ZOIs are often used to effectively represent the mitigation zone that would be established around each pile to prevent Level A harassment of marine mammals. In addition to the specific measures described later, ACEA and the Port would employ the following general mitigation measures:

- All work would be performed according to the requirements and conditions of the regulatory permits issued by federal, state, and local governments.
- Briefings would be conducted between the project construction supervisors and crew and marine mammal observer(s) (MMO) as necessary prior to the start of all pile-driving activity, and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.
- Contractors for construction work would comply with all applicable equipment sound standards and ensure that all construction equipment has sound control devices no less effective than those provided on the original equipment (i.e., equipment may not have been modified in such a way that it is louder than it was initially).
- Only one impact pile driver may be operated simultaneously.
- For impact driving of timber piles, a cushion block or similar device would be used for sound attenuation at all times.

Monitoring and Shutdown

Shutdown Zones—For all pile driving and removal activities, a shutdown zone (defined as, at minimum, the area in which SPLs equal or exceed 180 dB rms) would be established when applicable. For the proposed activity, this would be required only for impact pile driving. The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury, serious injury, or death of marine mammals. During all impact pile driving, the Port would establish a conservative shutdown zone of 10 m radius around each pile to avoid exposure of marine mammals to sound levels that could potentially cause injury. The shutdown zone would be monitored during all impact pile driving.

Disturbance Zones—For all pile driving and removal activities, a disturbance zone would be established. Disturbance zones are typically defined as the area in which SPLs equal or exceed 160 or 120 dB rms (for impact and vibratory pile driving, respectively). Disturbance zones provide utility for monitoring conducted for mitigation purposes (i.e., shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables MMOs to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting incidents of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see Proposed Monitoring and Reporting). Disturbance zones would be established with 50 m radius for impact pile driving and 1,000 m radius for vibratory pile driving; these zones would subsume the calculated disturbance zones for harassment from airborne sound.

Monitoring Protocols—The shutdown and disturbance zones would be monitored throughout the time required to drive a pile. If a marine mammal is observed within the disturbance zone, a take would be recorded and behaviors documented. However, that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Impact driving would only occur during daylight hours. If the shutdown zone is obscured by fog or poor lighting conditions, pile driving would not be initiated until the entire shutdown zone is visible. Work that has been initiated appropriately in conditions of good visibility may continue during poor visibility.

The shutdown zone would be monitored for the presence of marine mammals before, during, and after any pile driving activity. The shutdown zone would be monitored for 30 minutes prior to initiating the start of pile driving. If marine mammals are present within the shutdown zone prior to pile driving, the start of pile driving would be delayed until the animals leave the shutdown zone of their own volition, or until 15 minutes elapse without resighting the animal(s). The shutdown zone would also be monitored throughout the time required to drive a pile. If a marine mammal is observed approaching or entering the shutdown zone, piling operations would be discontinued until the animal has moved outside of the shutdown zone. Pile driving would resume only after the animal is determined to have moved outside the shutdown zone by a qualified observer or after 15 minutes have elapsed since the last sighting of the animal within the shutdown zone.

Monitoring would be conducted using binoculars and the naked eye. When possible, digital video or still cameras would also be used to document the behavior and response of marine mammals to construction activities or other disturbances. Each observer would have a radio or cell phone for contact with other monitors or work crews. Observers would implement shutdown or delay procedures when applicable by calling for the shutdown to the hammer operator. A GPS unit or electric range finder would be used for determining the observation location and distance to marine mammals, boats, and construction equipment.

Monitoring would be conducted by qualified observers. In order to be considered qualified, observers must meet the following criteria:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target.
- Advanced education in biological science, wildlife management, mammalogy, or related fields (bachelor's degree or higher is required).
- Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience).
- Experience or training in the field identification of marine mammals, including the identification of behaviors.
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations.
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior.
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Ramp-Up

The objective of a ramp-up is to alert any animals close to the activity and allow them time to move away, which would expose fewer animals to loud sounds, including both underwater and above water sound. This procedure also ensures that any marine mammals missed during shutdown zone monitoring would move away from the activity and not be injured. The following ramp-up procedures would be used for in-water pile installation:

- A ramp-up technique would be used at the beginning of each day's in-water pile driving activities or if pile driving has ceased for more than 30 minutes.
- If a vibratory driver is used, contractors would be required to initiate sound from vibratory hammers for 15 seconds at reduced energy followed by a 30-second waiting period. The procedure would be repeated two additional times before full energy may be achieved.
- For impact driving, contractors would be required to conduct soft start if the technique is feasible given the hammer type. Soft start would be conducted to provide an initial set of strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, then two subsequent sets. The reduced energy of an individual hammer cannot be quantified because they vary by individual drivers. Also, the number of strikes would vary at reduced energy because raising the hammer at less than full power and then releasing it results in the hammer ''bouncing'' as it strikes the pile, resulting in multiple 'strikes'.

Helicopter Operations and Fireworks Displays

Approved flight patterns for AC34 contracted and race-affiliated helicopters would be detailed in the Water and Air Traffic Plan. The project sponsors would be responsible for coordinating with the FAA to ensure compliance with flight regulations and to enforce the flight restrictions identified in the Plan to protect marine mammals. Helicopters would descend/ascend vertically for landing and take-off at the helipad on Treasure Island. Helicopters would not skim the surface of water (i.e., flight no lower than 100 ft) during the race events nor during landing and takeoff operations. In addition, race-related helicopters would maintain a buffer of at least 1,000 ft (vertically and horizontally) around Alcatraz Island and Crissy Beach Wildlife Protection Area, would avoid direct overflights of the Pier 39 haul-out, and would maintain the restriction on flight below 100 ft in the vicinity of Pier 39 where sea lions are known to haul out.

Any fireworks displays would be limited in terms of frequency and location as necessary to protect marine mammals. There would be no more than four events, two up to 30 minutes and two up to 45 minutes in duration in 2013. The fireworks barge would be in a similar location to and of the same noise intensity as the annual 4th of July fireworks display conducted by the City of San Francisco. These fireworks displays would be regulated through the USCG Marine Event Permit process.

NMFS has carefully evaluated the applicant's mitigation measures as proposed and considered their effectiveness in past implementation to preliminarily determine whether they are likely to effect the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures includes consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals, (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; (3) the practicability of the measure for applicant implementation, including consideration of personnel safety, and practicality of implementation.

Injury, serious injury, or mortality to marine mammals is extremely unlikely to result from the proposed activities even in the absence of any mitigation measures. However, in cooperation with the applicants, we have proposed the described mitigation measures to reduce even further the probability of such events occurring and to reduce the number of potential behavioral harassments to the level of least

practicable impact. NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammal species or stocks and their habitat.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216 indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present.

The applicants proposed a marine mammal monitoring plan, which may be modified or supplemented based on comments or new information received during the public comment period. All methods identified herein have been developed through coordination between NMFS and the applicants, and are based on the parties' professional judgment supported by their collective knowledge of marine mammal behavior, site conditions, and proposed project activities. Any modifications to this protocol would be coordinated with NMFS. A summary of the plan, as well as the proposed reporting requirements, is contained here.

The intent of the monitoring plan is to:

- Comply with the requirements of the MMPA;
- Avoid injury to marine mammals through visual monitoring of identified shutdown zones and shutdown of activities when animals enter or approach those zones; and
- To the extent possible, record the number, species, and behavior of marine mammals in disturbance zones for proposed activities.

As described previously, monitoring for marine mammals during pile driving would be conducted in specific zones established to avoid or minimize effects of elevated levels of sound created by the specified activities. Shutdown and disturbance zones would correspond to the distances described previously in this document.

Visual Monitoring

The established shutdown and disturbance zones would be monitored by qualified marine mammal observers for mitigation purposes, as well as to document marine mammal behavior and incidents of Level B harassment. Monitoring protocols were described in greater detail under Proposed Mitigation. The marine mammal monitoring plan would be implemented, requiring collection of sighting data for each marine mammal observed during the proposed activities for which monitoring is required, including all impact pile driving and a subset of vibratory pile driving. Disturbance zones, briefly described previously under Proposed Mitigation, are discussed in greater depth here.

Disturbance Zone Monitoring—Disturbance zones, described previously in Proposed Mitigation, are defined as 50 m radius for impact pile driving and 1,000 m radius for vibratory pile driving. Monitoring of disturbance zones would be implemented as described previously in Proposed Mitigation. All impact pile driving would be monitored according to described protocols. For vibratory driving, the first two days of representative pile driving activity at each specific location, when the contractors are mobilizing and starting use of the vibratory hammer, would be monitored in order to validate estimates of incidental take and to record behavioral reactions, if any, of marine mammals present in the vicinity. Additional monitoring, to be decided when the schedule of work is provided by the contractor, would be conducted as necessary in each specific location such that a minimum of one-third of the total pile driving days at each location are monitored. These additional days may be scheduled at the discretion of the applicant, but shall include any days of heightened activity (if they occur) or would be representative of typical levels of activity. It is not possible for NMFS to define a ''typical'' day of pile driving activity. Should it become apparent that greater than anticipated numbers of animals are being harassed, or that animals are displaying behavioral reactions of greater than anticipated intensity, we may require the applicants to expand the monitoring program.

We considered but rejected an expanded monitoring plan that would require the applicants to conduct monitoring as described but for every day of vibratory pile driving. NMFS does not believe that monitoring need be conducted at all times during this low-level activity as there is no potential for injury, serious injury, or mortality and the probability of an animal being physically injured from the equipment is extremely low if not discountable. Similar to scientific research studies, when correcting for effort, the applicants and NMFS would be able to adequately determine the number of animals taken and impacts of the project on marine mammals based on the proposed monitoring plan. As noted previously, in the event of more intense reactions or greater numbers of take than anticipated, the applicants would temporarily stop activity and consult with NMFS. However, based on the nature of the activity and the local context (i.e., a heavily urbanized area with animals that are likely habituated to a loud environment and high levels of activity), we do not believe that animals would display significant adverse reactions to sound levels above background.

The monitoring biologists would document all marine mammals observed in the monitoring area. Data collection would include a count of all marine mammals observed by species, sex, age class, their location within or in relation to the zone, and their reaction (if any) to construction activities, including direction of movement, and type of construction that is occurring, time that pile driving begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions such as wind speed, wind direction, visibility, and temperature would also be recorded. No monitoring would be conducted during inclement weather that creates potentially hazardous conditions, as determined by the biologist, nor would monitoring be conducted when visibility is significantly limited, such as during heavy rain or fog. During these times of inclement weather, impact pile driving would be halted; these activities would not commence until monitoring has started for the day.

Helicopter Operations and Fireworks Displays—In order to estimate levels of take incidental to these activities and to better understand pinniped sensitivity to disturbance from overflights and fireworks displays, the applicants would conduct monitoring as described here. For helicopter operations, at least one monitor would conduct observations at the California sea lion haul-out at Pier 39 (the only established haul-out within the project area) during a subset of helicopter operations days. Monitoring would be conducted for the first five days on which helicopter operations occur in order to confirm assumptions regarding the degree to which pinnipeds may be disturbed by such operations. If pinnipeds are being disturbed by helicopter operations to a degree similar to that assumed here (see Estimated Take by Incidental Harassment), the applicants shall

monitor on additional days, determined by the applicants and contractors, totaling at least one-third of total helicopter operations days. If pinnipeds at Pier 39 are not being disturbed, or are being disturbed to a much lesser degree than what is assumed here, the applicants may cease monitoring after the initial five days.

For fireworks displays, the applicants would conduct a pre- and post-event census of marine mammals within the acute fireworks impact area (the area where sound, light, and debris effects may have direct impacts on marine organisms and habitats) and would also monitor the California sea lion haul-out at Pier 39. The pre-event census, conducted in order to estimate the number of marine mammals that may be harassed by displays, would occur as close to the actual display time as possible, would be conducted for no less than 30 minutes, and would describe all observed marine mammals. However, only hauled-out pinnipeds observed in the area during the pre-event census, if any, would be assumed to be incidentally harassed by the display. Post-event monitoring in the acute fireworks impact area, to occur no later than the morning following the display and for no less than 30 minutes, would be conducted to record injured or dead marine mammals, if any.

During monitoring at the Pier 39 haul-out—during helicopter overflights or fireworks displays—monitors would note pinniped disturbance according to a three-point scale indicating severity of behavioral reaction, as shown in Table 3. The time, source, and duration of the disturbance, as well as an estimated distance between the source and haul-out, would be recorded. Only responses falling into Levels 2 and 3 would be considered as harassment under the MMPA, under the terms of this proposed IHA.

TABLE 3—PINNIPED RESPONSE TO DISTURBANCE

Level	Type of response	Definition
1	Alert	Head orientation in response to disturbance. This may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, or changing from a lying to a sitting position. May include slight movement of less than 1 m.
2	Movement	Movements in response to or away from disturbance, typically over short distances (1–3 m).
3	Flight	All flushes to the water as well as lengthier retreats (>3 m).

All monitoring personnel must have appropriate qualifications as identified previously, with qualifications to be certified by ACEA and the Port (see Proposed Mitigation). These qualifications include education and experience identifying marine mammals that may occur in the Bay and the ability to understand and document marine mammal behavior. All monitoring personnel would meet at least once for a training session sponsored by the applicants. Topics would include: implementation of the protocol, identification of marine mammals, and reporting requirements.

All monitoring personnel would be provided a copy of the IHA. Monitoring personnel must read and understand the contents of the IHA as they relate to coordination, communication, and identification and reporting incidental harassment of marine mammals.

Reporting

The applicants are required to submit a report on all activities and marine mammal monitoring results to the Office of Protected Resources, NMFS, and the Southwest Regional Administrator, NMFS, 90 days prior to the desired date of validity for any subsequent IHA, or within 90 days of the expiration of the IHA, whichever comes first. A final report would be prepared and submitted to NMFS within 30 days following receipt of NMFS' comments on the draft report. The report would provide descriptions of any observed behavioral responses to the proposed activities by marine mammals, including marine mammal observations pre-, during-, and post-activity for pile driving monitoring. At a minimum, the report would include:

- Specifics of the activity: Date, time, and location; observation conditions (e.g., sea state, tide state, percent cover, visibility); pile driving activity specifications (e.g., size and type of piles, hammer specifications and sound attenuation device specifications);
- Discussion of incidental take, including (1) records of all observed incidental take events; (2) for vibratory pile driving, the total estimated amount of incidental take based on extrapolation of observed take; and (3) estimates of take for helicopter operations and fireworks displays.
- Description of observed marine mammal behavior, including correlations of observed behavior to activity, including distance to pile being driven or other source of disturbance; and discussion of sensitivity of hauled-out pinnipeds to helicopter overflights and/or fireworks displays as described previously.
- Discussion of mitigation, including description of any actions performed to minimize impacts to marine mammals; and times when pile driving is stopped or delayed due to presence of marine mammals within shutdown zones and time when pile driving resumes.
- Any recommendations for improving efficacy and efficiency of monitoring and/or mitigation.

Estimated Take by Incidental Harassment

ACEA and the Port have requested, and we are proposing, authorization to take harbor seals, California sea lions, northern elephant seals, and harbor porpoises, by Level B harassment only, incidental to the proposed activities. Pile driving activities are expected to incidentally harass marine mammals through the introduction of underwater and/or airborne sound to the environment, while helicopter operations and fireworks displays have the potential to harass pinnipeds through some combination of acoustic and visual stimuli. Based on the nature of the activities and the mitigation measures proposed for implementation, no take by injury, serious injury, or mortality is anticipated or proposed for authorization. Estimates of the number of animals that may be harassed by the proposed activities is based upon the number of animals believed to potentially be present within relevant areas at the time a given activity is conducted. Tables 4 details the total number of estimated takes. In summary, we propose to authorize the incidental take, by Level B harassment only, of 14,063 California sea lions, 686 harbor seals, 63 harbor porpoises, and two elephant seals. These take events would likely represent multiple takes of individuals, rather than each event being of a new individual.

TABLE 4—INCIDENTAL TAKE ESTIMATES

Species		Pile driving	Helicopter operations	Fireworks displays
California sea lion	Individuals/day	1	250	250
	Total # days	63	52	4
	Total take estimate	63	13,000	1,000
Harbor seal	Individuals/day	2	10	10
	Total # days	63	52	4
	Total take estimate	126	520	40
Harbor porpoise	Individuals/day	1	n/a	n/a
	Total # days	63	n/a	n/a
	Total take estimate	63	n/a	n/a
Elephant seal		Total request of two individuals for all activities.		

Pile Driving

California sea lions and harbor seals may use the waters adjacent to the San Francisco waterfront for foraging or for daily movement between foraging and haul out locations, and observations have been made at various locations along the San Francisco waterfront. The California sea lion haul-out at Pier 39 is approximately 800–1,000 m from the nearest vibratory driving location—although sound would be attenuated by at least three major piers between, as well as the curvature of the waterfront shoreline—and is approximately 1.6 km from Pier 19, where impact pile driving would occur. As previously described, the nearest known haul out site for harbor seals is at YBI. Vibratory driving locations range approximately 2.4–6.8 km from the haul-out, while Pier 19, where impact driving of timber piles would occur, is more than 3.2 km distant from the haul-out. Proposed fireworks displays would be approximately 1.6–3.2 km from Pier 39 and 3.2–4.8 km from YBI, depending on the final selected location. No proposed activities would be expected to affect animals at the YBI haul-out. While it is possible that harbor porpoises could occur in the vicinity of the waterfront, sightings greater than approximately 800 m inside the Golden Gate Bridge are infrequent (NMFS, 2009) and the harbor porpoise is considered uncommon in the vicinity of the San Francisco waterfront.

The most comprehensive monitoring data available was collected by Caltrans for the SFOBB project; these data represent the best available information for approximating local abundance of these species. The SFOBB monitoring site was located in the vicinity of the YBI haul-out, whereas most of the sites where construction or race activities would occur are in areas of high commercial shipping and boat activity. Therefore, SFOBB monitoring data may be expected to provide conservative estimates of marine mammal abundance. More recent monitoring was conducted during construction associated with the Exploratorium, located at Piers 15 and 17 at the San Francisco waterfront. During vibratory pile driving only, monitoring was conducted on 25 days from January 10–July 29, 2011, to a distance of approximately 2,000 m from the pile driving location. On those 25 days, the only species observed were the California sea lion and the harbor seal. Harbor seals were observed on 9 of 25 days, while California sea lions were observed on 8 of 25 days. Sightings data provide rates of 0.52 and 0.68 animals observed per monitoring day for harbor seals and California sea lions, respectively.

During monitoring of the SFOBB project over 22 days, abundance estimates of 1.5 seals per day and 0.09 sea lions per day were recorded. Due to the relative tranquility of YBI and the presence of a harbor seal haul-out, the estimate for harbor seals is likely higher than would be found for the San Francisco waterfront. However, as confirmed by information from the Exploratorium monitoring effort, the estimate for California sea lions is likely lower, given that greater numbers of that species may be encountered transiting to and from the Pier 39 haul-out.

The applicants propose conservative estimates of two harbor seals per day—a slight increase from the SFOBB data—and one California sea lion per day, a slight increase from the Exploratorium observations. The Caltrans SFOBB monitoring reported one observed harbor porpoise in the vicinity of YBI. This is the only available information for harbor porpoise and provides an extremely conservative estimate of one harbor porpoise per day of activity. Based on estimated pile driving production rates, a maximum of 63 days is anticipated for pile driving under this proposed IHA.

Helicopter Operations and Fireworks Displays

Incidental take resulting from helicopter overflights and/or fireworks displays would likely be limited to California sea lions and harbor seals occurring within the immediate vicinity of a helicopter flight patterns or fireworks displays. Specifically, California sea lions present at Pier 39 would likely be subject to incidental harassment, although there is the potential for harbor seals to be hauled-out within range of stimuli that may cause harassment.

Estimates of the number of California sea lions that could be harassed by helicopter operations and/or fireworks displays are based on information from the Pier 39 haul-out. California sea lion usage of Pier 39 is a relatively recent phenomenon. The first individuals were observed during the winter of 1989–90, however, by the next year the numbers reached an average 500 per day (Goals Project, 2000), with a maximum recorded observation of approximately 800 individuals. Since the early 1990s, peak numbers during winter have declined and now average about 200–300 animals per day. In order to estimate incidental take, a conservative estimate of 500 animals present per day was considered. Observations of pinniped response to the presence of humans on foot in the Channel Islands indicated that the proportion of California sea lions that are behaviorally harassed is approximately fifty percent (77 FR 12246), although this is likely conservative, given that the animals at Pier 39 are more habituated to stimuli than those in more remote locations.

Estimates of the number of harbor seal that may be present during helicopter operations and/or fireworks displays are based on local observations reported by the applicants—no other upon which to base the estimate is known to us or to the applicants. Anecdotal information from monitoring of fleet week, National

Park Service staff observations, and local sailors reported observations of anywhere from 10–15 seals per day while out on the water. Therefore, in an extremely conservative estimation, we assume that ten animals per day may be hauled-out in locations along the waterfront and that all animals would be harassed. The previously mentioned Channel Islands observations indicate that approximately 75 percent of animals are harassed by a given stimuli, but it is likely that all animals would flush in this context.

Elephant Seals

As stated previously, elephant seals breed between December and March and have been rarely sighted in the Bay. However, regular, if infrequent, sightings of juveniles have been made in recent years at Crissy Field beach. Therefore, it is possible that an elephant seal could occur within areas that are ensonified above levels that NMFS considers to result in Level B harassment. Although possible, it is unlikely that elephant seals would be harassed; however, in order to be precautionary the applicants have requested authorization for incidental take of two elephant seals over the life of the proposed IHA and we propose to authorize that take. There is no information upon which to base a quantitative estimate of potential take; therefore, take is estimated on the basis of the few individuals observed at Crissy Field beach.

It is not anticipated that elephant seals would be harassed by helicopter operations and/or fireworks displays because (1) elephant seals have been observed, during the aforementioned Channel Island monitoring, to display behavioral reactions to potentially harassing stimuli less than one percent of the time; (2) Crissy Field beach is over 4 km distant from the nearest potential fireworks display location; and (3) helicopters would avoid Crissy Field beach by 1,000 ft in response to concerns about sensitive avian species.

Negligible Impact and Small Numbers Analysis and Determination

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.'' In making a negligible impact determination, NMFS considers a variety of factors, including but not limited to: (1) The number of anticipated mortalities (if any); (2) the number and nature of anticipated injuries (if any); (3) the number, nature, intensity, and duration of Level B harassment; and (4) the context in which the take occurs.

Although the proposed activities may harass marine mammals present in the action area, impacts are largely occurring to a localized group of animals (i.e., the California sea lions present in the vicinity of Pier 39 and harbor seals from YBI that may be present at the San Francisco waterfront). Further, any incidents of harassment would be occurring to animals that are habituated to a high level of surrounding human activity, including both urban and industrial activity, and to an already loud environment. Monitoring associated with the Exploratorium project resulted in no observations of discernible reactions to vibratory pile driving or any other work activity, although animals were observed as close as 12 m from pile driving. No avoidance behavior was observed, including even basic reactions such as head alerts. Both sea lions and harbor seals appeared to use the waterfront for travelling along a rough north-south course. Travel was typically slow, although some fast traveling (indicating by porpoising) by sea lions was noted. A few individuals of both species were also observed resting at the surface. Frequent commercial and recreational vessel traffic was consistently observed on all monitoring days, and observed animals were reported as appearing habituated to such traffic.

The proposed number of animals taken for each species can be considered small relative to the population size. There are an estimated 34,233 harbor seals in the California stock, 238,000 California sea lions, 9,189 harbor porpoises, and 124,000 northern elephant seals in the California breeding population. Based on the best available information, NMFS is proposing to authorize take, by Level B harassment only, of 14,063 California sea lions, 686 harbor seals, 63 harbor porpoises, and two northern elephant seals, representing 5.9, 2.0, 0.7, and 0.002 percent of the populations, respectively. However, this represents an overestimate of the number of individuals harassed over the duration of the proposed IHA, because these totals represent much smaller numbers of individuals that may be harassed multiple times. No stocks known from the action area are listed as threatened or endangered under the ESA or determined to be depleted or considered strategic under the MMPA. Recent data suggests that harbor seal populations have reached carrying capacity, populations of California sea lions and northern elephant seals in California are also considered healthy, and recent information suggests that the harbor porpoise may be expanding its range on the west coast. No injury, serious injury, or mortality is anticipated, nor is the proposed action likely to result in long-term impacts such as permanent abandonment of the Pier 39 haul-out or a permanent reduction in presence in San Francisco Bay. No impacts are expected at the population or stock level.

Based on the foregoing analysis, behavioral disturbance to marine mammals in the Bay would be of low intensity and limited duration. To ensure minimal disturbance, the applicants would implement the mitigation measures described previously, which we have preliminarily determined would serve as the means for effecting the least practicable adverse impact on the relevant marine mammal stocks or populations and their habitat. We preliminarily find that the proposed activities would result in the incidental take of small numbers of marine mammals, and that the requested number of takes would have no more than a negligible impact on the affected species and stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action.

Endangered Species Act (ESA)

There are no ESA-listed marine mammals found in the action area; therefore, no consultation under the ESA is required.

National Environmental Policy Act (NEPA)

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), and NOAA Administrative Order 216–6, we are preparing an Environmental Assessment (EA) to consider the direct, indirect and cumulative effects to the human environment resulting from issuance of a proposed IHA to ACEA and the Port for the specified activities.

Proposed Authorization

As a result of these preliminary determinations, we propose to authorize the take of marine mammals incidental to the proposed activities, provided the previously mentioned mitigation,

monitoring, and reporting requirements are incorporated.

Dated: May 25, 2012.

Frederick C. Sutter III,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–13327 Filed 5–31–12; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must be Received on or Before: 7/2/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

Tools, Digging, Fiberglass Handle

NSN: 5120–00–NIB–0014—Shovel, Round Point, Closed Back, Industrial Grade, 48″ Fiberglass Handle, Cushioned Grip
NSN: 5120–00–NIB–0015—Shovel, Round Point, Open Back, Industrial Grade, 48″ Fiberglass Handle, Cushioned Grip
NSN: 5120–00–NIB–0016—Shovel, Round Point, Open Back, Industrial Grade, 29″ Fiberglass Handle, D-grip
NSN: 5120–00–NIB–0017—Shovel, Square Point, Open Back, Industrial Grade, 48″ Fiberglass Handle, Cushioned Grip
NSN: 5120–00–NIB–0018—Shovel, Square Point, Open Back, Industrial Grade, 29″ Fiberglass Handle, D-grip
NSN: 5120–00–NIB–0019—Shovel, General Purpose, Steel Scoop, Industrial Grade, 48″ Fiberglass Handle, Cushioned Grip
NSN: 5120–00–NIB–0020—Shovel, General Purpose, Steel Scoop, Industrial Grade, 29″ Fiberglass Handle, D-grip
NSN: 5120–00–NIB–0021—Shovel, Grain, Aluminum Scoop, Industrial Grade, 51″ Fiberglass Handle, Cushioned Grip
NSN: 5120–00–NIB–0022—Shovel, Grain, Aluminum Scoop, Industrial grade, 29″ Fiberglass Handle, D-grip
NSN: 5120–00–NIB–0023—Shovel, Grain, ABS Scoop, Industrial Grade, 51″ Fiberglass Handle, Cushioned Grip
NSN: 5120–00–NIB–0024—Shovel, Grain, ABS Scoop, Industrial Grade, 29″ Fiberglass Handle, D–Grip
NSN: 5120–00–NIB–0025—Shovel, Snow, ABS Scoop, Industrial Grade, 40″ Fiberglass Handle, D-grip
NSN: 5120–00–NIB–0026—Shovel, Snow Pusher, ABS Scoop, Industrial Grade, 40″ Fiberglass Handle, D-grip
NSN: 3750–00–NIB–0004—Rake, Bow, Leaf, ABS Head, Industrial Grade, 51″ Fiberglass Handle, Cushioned-Grip
NSN: 3750–00–NIB–0005—Rake, Bow, Leaf, Steel Head, Industrial Grade, 57″ Fiberglass Handle, Cushioned-Grip
NSN: 3750–00–NIB–0006—Rake, Flat, Leaf, Steel Head, Industrial Grade, 62″ Fiberglass Handle, Cushioned-Grip
NSN: 3750–00–NIB–0007—Hoe, Mortar, Steel Head, Industrial Grade, 62″ Fiberglass Handle, Cushioned-Grip
NSN: 3750–00–NIB–0008—Hoe, Garden, Steel Head, Industrial Grade, 57″ Fiberglass Handle, Cushioned-Grip
NSN: 5110–00–NIB–0036—Scraper, Ice/Floor, Steel Head, Industrial Grade, 49″ Fiberglass Handle, Cushioned-Grip
NSN: 3895–00–NIB–0001—Tamper, Cast Iron Head, Industrial Grade, 42″ Fiberglass Handle, Cushioned-Grip
NSN: 3895–00–NIB–0002—Asphalt Lute, Aluminum Head, Industrial Grade, 67″ Fiberglass Handle, Cushion-Grip
NPA: Keystone Vocational Services, Inc., Sharon, PA
Contracting Activity: General Services Administration, Kansas City, MO
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.

Binder, Loose-Leaf

NSN: 7510–01–392–5283–3 D-Ring, No Overlay, Black, 5″
NSN: 7510–01–495–0696—Slant 3 D-Ring with Overlay, White, 4″
NPA: South Texas Lighthouse for the Blind, Corpus Christi, TX
Contracting Activity: General Services Administration, New York, NY
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.

Blank Media Discs, DVD–R

NSN: 7045–00–NIB–0392—Thermal Printable, Silver, 8x Speed, 120Min/4.7GB, 100 PK
NPA: North Central Sight Services, Inc., Williamsport, PA
Contracting Activity: General Services Administration, New York, NY
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.

Padlock Sets, Solid Case

NSN: 5340–01–588–1819—1.5″ Wide Brass, Keyed Differently, w/Chain, EA
NSN: 5340–01–588–1010—1.75″ Wide Steel, Keyed Differently, w/Chain, EA
NSN: 5340–01–588–1036—1.75″ Wide Steel, Keyed Differently, No Chain, EA
NSN: 5340–01–588–1676—1.5″ Wide Brass, 3 Keys, Keyed Alike, w/Chain, 5/SE
Coverage: A-List for the Total Government Requirement, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.
NSN: 5340–00–NIB–0123–1.75″ Wide Steel, Keyed Differently, w/Chain, 6/SE
NSN: 5340–01–588–1863–1.5″ Wide Brass, Keyed Differently, 3″ Extra Long Shackle, w/Chain, EA
NSN: 5340–01–588–1709–1.5″ Wide Brass, Keyed Differently, 3″ Extra Long Shackle, No Chain, EA
NSN: 5340–01–588–1916–1.75″ Wide Steel, Keyed Differently, 3″ Extra Long Shackle, w/Chain, EA
NSN: 5340–01–588–1924–1.75″ Wide Brass, Keyed Differently, w/Chain, EA
NSN: 5340–01–588–1891–1.5″ Wide Brass,

Keyed Alike, w/Chain, 5/SE
NSN: 5340–01–588–1911–1.5″ Wide Brass, Keyed Alike, 3″ X-Long Shackle, w/Chain, 5/SE
NSN: 5340–01–588–1846–1.5″ Wide Brass, Keyed Alike, w/Chain, 6/SE
NSN: 5340–01–588–1827–1.5″ Wide Brass, Keyed Alike, w/Chain, 10/SE
NSN: 5340–01–588–1831–1.5″ Wide Brass, Keyed Alike, w/Chain, 20/SE
NSN: 5340–01–588–1895–1.5″ Wide Brass, Keyed Alike, w/Chain, 25/SE
NSN: 5340–01–588–1838–1.5″ Wide Brass, Keyed Alike, w/Chain, 30/SE
NSN: 5340–01–588–1841–1.5″ Wide Brass, Keyed Alike, w/Chain, 100/SE
NSN: 5340–01–588–1905—Padlock, Solid Case, 1.75″ Wide Steel, Keyed Alike, 3″ Extra Long Shackle, w/Chain, EA
NSN: 5340–01–588–1954–1.75″ Wide Steel, Keyed Alike, w/Chain, 6/SE
NSN: 5340–01–588–1928–1.75″ Wide Steel, Keyed Alike, w/Chain, 10/SE
NSN: 5340–01–588–1960–1.75″ Wide Steel, Keyed Alike, w/Chain, 24/SE
NSN: 5340–01–588–1567–1.5″ Wide Brass, Master Keyed, w/Chain, 5/SE
NSN: 5340–01–588–1582–1.5″ Wide Brass, Master Keyed, w/Chain, 10/SE
NSN: 5340–01–588–1091–1.5″ Wide Brass, Master Keyed, w/Chain, 20/SE
NSN: 5340–01–588–1563–1.5″ Wide Brass, Master Keyed, w/Chain, 30/SE
NSN: 5340–01–588–1044–1.75″ Wide Brass, Master Keyed, w/Chain, 40/SE
NSN: 5340–01–588–1063–1.5″ Wide Brass, Master Keyed, w/Chain, 50/SE
NSN: 5340–01–588–1031–1.5″ Wide Brass, Master Keyed, w/Chain, 100/SE
NSN: 5340–01–588–1592–1.5″ Wide Brass, Grand Master Keyed, w/Chain, 13/SE., 5–5–3 Groupings
NSN: 5340–01–588–1596–1.5″ Wide Brass, Grand Master Keyed, w/Chain, 30/SE., 15–10–5 Groupings
NSN: 5340–01–588–1652–1.5″ Wide Brass, Grand Master Keyed, w/Chain, 30/SE., 15–5–10L Groupings
NSN: 5340–01–588–1657–1.5″ Wide Brass, Grand Master Keyed, w/Chain, 40/SE., 15–5–20L Groupings
NSN: 5340–01–588–1641–1.5″ Wide Brass, Grand Master Keyed, w/Chain, 50/SE., 20–20–10 Groupings
NSN: 5340–01–588–1646–1.75″ Wide Brass, Grand Master Keyed, w/Chain, 55/SE., 35–10–10L Groupings
NSN: 5340–01–588–1664–1.75″ Wide Brass, Grand Master Keyed, w/Chain, 80/SE., 45–15–20L Groupings
NSN: 5340–01–588–1687–1.75″ Brass, Grand Master Keyed, w/Chain, 80/SE., 30–30–20 Groupings
Coverage: B-List for the Broad Government Requirement, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.
NPA: L.C. Industries for the Blind, Inc., Durham, NC
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA

Pencil Sharpener, Electric, Hands Free

NSN: 7520–01–241–4229
NPA: Blind Center of Nevada, Inc., Las Vegas, NV
Contracting Activity: General Services Administration, New York, NY
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.

Medical Kit Items

NSN: 6515–01–NIB–7233—Splint, 4.25″ × 36″, Universal
NSN: 6510–00–NIB–0300—Dressing, Chest Seal Wound, 6″ × 8″
NSN: 6510–00–NIB–3325—Bandage, Gauze, Impregnated, 3″ × 144″
NSN: 6510–00–NIB–8884—Adhesive Tape, Surgical, 3″ × 360″
NSN: 6515–01–NIB–7138—Scissors, Bandage
NSN: 6532–01–NIB–6932—Blanket, Survival, 107.25″ × 88.35″
NSN: 6515–01–NIB–1187—Nasal Trumpet
NSN: 6515–01–NIB–7226—Leash, Shears, Trauma
NSN: 6515–01–NIB–0635—Needle, Decompression Device
NSN: 6515–01–NIB–7976—Tourniquet, Non-pneumatic
NPA: Lighthouse Central Florida, Orlando, FL
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.

Copy Paper, 100% Recycled, Convenience Pack

NSN: 7530–00–NIB–0890–8.5″ × 11″, Reamless 2500 Sheet
NSN: 7530–00–NIB–0891–8.5″ × 11″, Ream Wrapped 2500 Sheet
NPA: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY
Contracting Activity: General Services Administration, New York, NY
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.

Tray, Mess, 5 Compartment, Tan, 12½″ × 8½″

NSN: 7350–01–411–5266
NPA: The Lighthouse for the Blind in New Orleans, Inc., New Orleans, LA
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA
Coverage: C-List for an additional 30% of the requirement of the Department of Defense, bringing the requirement on the Procurement List to 100%, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.

Services

Service Type/Location: Fleet & Facility Maintenance, National Nuclear Security Administration (NNSA), Office of Secure Transportation (OST), Agent Operations Eastern Command (AOEC), 9714 Flannigan Loop Road, Oak Ridge, TN.
NPA: Skookum Educational Programs, Bremerton, WA
Contracting Activity: Department of Energy, National Nuclear Security Admn Business Svcs Division, Washington, DC
Service Type/Location: CBRNE Kit Sustainment and Replenishment, Naval Medical Logistics Command (Offsite: 10440 Trenton Avenue, St. Louis, MO), 693 Nelman Street, Fort Detrick, MD.
NPA: The Lighthouse for the Blind, St. Louis, MO
Contracting Activity: Dept of the Navy, Naval Medical Logistics Command, Fort Detrick, MD
Service Type/Location: Custodial and Landscaping Service, Rome Federal Building, 600 East First Street, Rome, GA.
NPA: Sara's Mentoring Center, Inc., Virginia Beach, VA
Contracting Activity: General Services Adminisration, Public Buildings Service, Acquisition Division/Services Branch, Atlanta, GA
Service Type/Location: Custodial Service, Transportation Security Administration (TSA) Space, Lehigh Valley International Airport, 3311 Airport Rd., Allentown, PA.
NPA: Via of the Lehigh Valley, Inc., Bethlehem, PA
Contracting Activity: General Services Adminisration, Public Buildings Service, R03 Regional contracts Support Services Section, Philadelphia, PA
Service Type/Location: Custodial Service, National Oceanic and Atmospheric Administration (NOAA), National Weather Service, 32 Dawes Drive, Johnson City, NY.
NPA: Human Technologies Corporation, Utica, NY
Contracting Activity: Dept of Commerce, National Oceanic and Atmospheric Administration, Norfolk, VA

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–13316 Filed 5–31–12; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds a product and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Effective Date: 7/2/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 12/2/2011 (76 FR 75536–75537), 1/13/2012 (77 FR 2048) and 4/6/2012 (77 FR 20795), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product and services and impact of the additions on the current or most recent contractors, the Committee has determined that the product and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.

2. The action will result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product and services are added to the Procurement List:

Product

Product Name/NSN: Tie Down Strap, Cargo, Vehicle, 20′×2″/3990–01–204–3009.
NPA: Cottonwood, Incorporated, Lawrence, KS.
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.

Services

Service Type/Location: Grounds Maintenance, Beale AFB, CA.
NPA: Crossroads Diversified Service, Inc., Sacramento, CA.
Contracting Activity: Dept of the Air Force, FA4686 9 CONS LGC, Beale AFB, CA.

Service Type/Location: Contractor-Operated Civil Engineer Supply Store (COCESS), 30th Civil Engineering Squadron, 1515 Iceland Avenue, Room 150, Vandenberg AFB, CA.
NPA: Industries for the Blind, Inc., West Allis, WI.
Contracting Activity: Dept of the Air Force, FA4610 30 CONS LGC, Vandenberg AFB, CA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–13317 Filed 5–31–12; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities; Notice of Intent To Renew Collection: Rules Relating To Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration, and Member Responsibility Actions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on rules relating to review of National Futures Association decisions in disciplinary, membership denial, registration, and member responsibility actions.

DATES: Comments must be submitted on or before July 31, 2012.

ADDRESSES: Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses below. Please refer to OMB Control No. 3038–0043 in any correspondence. Comments may be mailed to Gail B. Scott, Office of General Counsel, U.S. Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581. And

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Comments may also be submitted by any of the following methods:

The agency's Web site, at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.

Mail: David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

Hand Delivery/Courier: Same as mail above.

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Please submit your comments using only one method and identity that it is for the renewal of 3038–0043.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

FOR FURTHER INFORMATION CONTACT: Gail Scott, Office of General Counsel, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418–5139; FAX: (202) 418–5524; email: *gscott@cftc.gov* and refer to OMB Control No. 3038–0043.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

[1] *See* 17 CFR 145.9.

• Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

• The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

• Ways to minimize the burden of 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.

Rules Relating To Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration, and Member Responsibility Actions, OMB Control Number 3038–0043—Extension

These rules establish procedures and standards for Commission review of registered futures association procedures for membership and disciplinary actions.

The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

17 CFR	Annual number of respondents	Frequency of response	Total annual responses	Hours per response	Total hours
17 CFR part 171	25	On occasion	51.3	.5	25.6

There are no capital costs or operating and maintenance costs associated with this collection.

Dated: May 25, 2012.

David A. Stawick,

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 2012–13353 Filed 5–31–12; 8:45 am]

BILLING CODE P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3507(a)(1)(D)). The Bureau is soliciting comments regarding the information collection requirements relating to the advisory boards, bodies, panels, committees or other similar groups that the Bureau may establish, including the Consumer Advisory Board required by Title X of the Dodd Frank Wall Street Reform and Consumer Protection Act. The proposed collection has been submitted to the Office of Management and Budget for review and approval. A copy of the submission, including copies of the proposed collection and supporting documentation, may be obtained by contacting the agency contact listed below.

DATES: Written comments are encouraged and must be received on or before July 2, 2012 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the collection title below, to:

Agency: Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552; *CFPB_Public_PRA@cfpb.gov.*

OMB: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, or via email at *CFPB_Public_PRA@cfpb.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Applications for Advisory Boards, Groups, and Committees.

OMB Number: 3170–XXXX.

Abstract: The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law 111–203, Title X, Section 1014 (12 U.S.C. 5494) requires the Director of the Bureau to establish a Consumer Advisory Board (CAB) to advise and consult with the Bureau in the exercise of its functions under the federal consumer financial laws, and to provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information. In addition to the CAB, the Bureau anticipates that it may establish additional advisory boards, bodies, panels, committees or other similar groups (collectively referred to as ''other Advisory Groups'') to advise and consult with the Bureau in the exercise of its functions. The CAB and other Advisory Groups may invite individuals with special expertise to advise the groups on an ad hoc basis (Special Advisors).

The Bureau seeks to collect selection-related information from nominees to the CAB, such as background information, information related to financial disclosures, and other supplemental information relevant to the application process. The Bureau may collect similar information from potential candidates for other Advisory Groups, members of other Advisory Groups, and Special Advisors to CAB and other Advisory Groups, as relevant to the particular group.

This information collection will allow the Bureau to obtain information on the qualifications of individuals nominated to the CAB and will aid the Bureau in its selection of members for other Advisory Groups. The information collection also will aid the Bureau in selecting Special Advisors to the CAB and other Advisory Groups.

Once selected, Bureau staff may ask members of CAB and other Advisory Groups and Special Advisors, as part of their participation, to respond to questions asked to the CAB and other Advisory Groups or Special Advisors, or to provide information/advice based upon their expertise on issues before the CAB and other Advisory Groups related to the Bureau's exercise of its functions. Collection instruments for the CAB may include nomination forms with questions about assets and income,

affiliations and representations, financial interests and liabilities, and relevant professional experience. Collection instruments for other Advisory Groups or for Special Advisors may include questionnaires about professional experience relevant to the particular group or may include certifications regarding financial interests relevant to a particular group or a particular meeting. Additionally, nominees, members, former members, and Special Advisors may be asked to provide information/feedback on their experiences as related to the selection process or participation in the group. Collection instruments likely will include feedback forms and other similar questionnaires about the participant's experience on or with the CAB or other Advisory Groups, including their experience with the Bureau's information collections.

Type of Review: New generic collection.

Affected Public: Individuals, and for certain groups individual business representatives.

Estimated Number of Responses: 277.

Estimated Time per Respondent: 25.

Estimated Total Annual Burden Hours: 6,925.

Approved: May 23, 2012.

Chris Willey,

Chief Information Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2012–13260 Filed 5–31–12; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–27]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–27 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 29, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

MAY 2 2 2012

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 12-27, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Australia for defense articles and services estimated to cost $1.7 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 12–27

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* Commonwealth of Australia

(ii) *Total Estimated Value:*

Major Defense Equipment *	$1.000 billion.
Other	.700 billion.
Total	1.700 billion.

* as defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* EA–18G Modification Kits to convert 12 F/A–18F aircraft to G configuration, 34 AN/ALQ–99F(V) Tactical Jamming System Pods, 22 CN–1717/A Interference Cancellation Systems (INCANS), 22 R–2674(C)/A Joint Tactical Terminal Receiver (JTTR) Systems, 30 LAU–118 Guided Missile Launchers, Command Launch Computer (CLC) for High Speed Anti-Radiation Missile (HARM) and Advanced Anti-Radiation Guided Missile (AARGM), spare and repair parts, support and test equipment, publications and technical documentation, and training equipment, U.S. Government (USG) and contractor engineering, technical and logistics support services, and other related elements of logistical and program support.

(iv) *Military Department:* Navy (LEN)

(v) *Prior Related Cases, if any:* FMS Case SAF-$2.2B–02May07

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services*

Proposed to be Sold: See Attached Annex

(viii) *Date Report Delivered to Congress:* 22 May 2012

Policy Justification

Australia—EA–18G Airborne Electronic Attack (AEA) Aircraft Modification Kits

The Government of Australia has requested a possible sale of 12 EA–18G Modification Kits to convert F/A–18F aircrafts to G configuration, (34) AN/ALQ–99F(V) Tactical Jamming System Pods, (22) CN–1717/A Interference Cancellation Systems (INCANS), (22) R–2674(C)/A Joint Tactical Terminal Receiver (JTTR) Systems, (30) LAU–118 Guided Missile Launchers, Command Launch Computer (CLC) for High Speed Anti-Radiation Missile (HARM) and Advanced Anti-Radiation Guided Missile (AARGM, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government (USG) and contractor engineering, technical, and logistics support services, and other related elements of logistical and program support. The estimated cost is $1.7 billion.

Australia is an important ally in the Western Pacific. The strategic location of this political and economic power contributes significantly to ensuring peace and economic stability in the region. Australia's efforts in peacekeeping and humanitarian operations have made a significant impact to regional political and economic stability and have served U.S. national security interests. This proposed sale is consistent with those objectives and facilitates burden sharing with our allies.

The proposed sale will improve Australia's capability in current and future coalition efforts. Australia will use the enhanced capability as a deterrent to regional threats and to strengthen its homeland defense. Australia will have no difficulty absorbing this new capability into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be The Boeing Corporation in St. Louis, Missouri. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale may require the assignment of additional U.S. Government or contractor representatives to Australia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 12–27

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act Annex—Item No. vii—(vii) Sensitivity of Technology

1. The EA–18G modification kit consists of the following sensitive components:

a. The ALQ–218(V)2 Radio Frequency Receiver system makes use of hard/software developed for the Precision Direction-Finding System (PDFS) and forms the receiver section of the electronic attack systems installed aboard the EA 18G and the EA–6B. The equipment is teamed with variants of the AN/ALQ–99 tactical jamming system and is designed to facilitate a narrowband jamming capability that is aimed at countering frequency agile threats. The hardware for each modified aircraft will include wingtip pods, interface units, pre-selectors, Weapon Replacement Assembly Weapon Replacement Assemblies (WRAs) and antennas.

b. The ALQ–227(V)1 Communication Countermeasures Set (also known as the RT–1919), including hardware for each modified aircraft is a digital receiver/exciter that makes use of the AN/ALQ–99 noise jamming system that transmits ''complex'' communications jamming waveforms over a ''broad'' frequency range.

c. The CP–2640/ALQ Electronic Attack Unit (EAU) provides the integration and management of all Radio Frequency (RF) and communication sensors within the EA–18G.

2. The AN/ALQ–99F(V) Tactical Jamming System pod is equipped with a hardback that supports fore and aft transmitters, a nose-mounted Ram Air Turbine (RAT), a centrally-mounted Universal Exciter Unit (UEU), a pod control unit, and two steerable high-gain transmission arrays. The UEU is central to the pod's function and is a digitally controlled signal generator that receives threat parameter data from the TJS computer and generates an appropriate response by modulating a radio frequency oscillator. This output is then amplified and emitted by the appropriate transmitter.

3. The CN–1717/A Interference Cancellation System (INCANS) is an aircraft-mounted system that provides secure voice communications with friendly forces while simultaneously jamming enemy communications. The main concern on INCANS is its compatibility with the AN/ALQ–99 tactical jamming system which will allow the EA–18G to conduct voice communications over ultra-high radio frequencies with friendly forces, while simultaneously jamming enemy communications.

4. The R–2674(C)/A Joint Tactical Terminal Receiver (JTTR) System and associated hardware provides eight receive channels that enable the aircraft to access near real-time threat, survivor and Blue Force Tracking data that will be transmitted to the pilot, thereby increasing the users' critical situational awareness.

5. The LAU–118 is a guided missile launcher that is reusable and completes the F/A–18 suspension and launching system for the AGM–88 High-Speed Anti-Radiation Missile (HARM) and AGM–88E Advanced Anti-Radiation Guided Missile (AARGM). The launcher consists of the launcher housing, forward and aft fairing assemblies, forward and aft launcher tracks, suspension lugs, insert plugs, and internal electrical components

6. The Command Launch Computer (CLC) for HARM and AARGM is an electronics subsystem installed on the airframe to interface with HARM/AARGM Missiles and the F/A–18E/F and EA–18G aircraft. The CLC receives target data from the missile and onboard avionics, processes the data for display to the aircrew to the appropriate display, determines target priority, and collects aircraft data for pre-launch hand-off to the HARM/AARG missiles. The CLC determines time coincidence between the HARM/AARGM missiles and the Radar Warning Receiver (RWR) directional data and pulse repetition intervals and formats. The identification data is processed by the CLC to perform target identification, prioritization, and display information. The CLC generates targeting commands to the HARM/AARGM missiles for appropriate target and provides Targeting and guidance information for the missiles to Target of Interest (TOI) on offensive attack missions

7. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2012–13293 Filed 5–31–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–06]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–06 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 29, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

MAY 2 2 2012

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 12-06, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to the Republic of Korea for defense articles and services estimated to cost $84 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 12–06

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* Republic of Korea

(ii) *Total Estimated Value:*

Major Defense Equipment *	$81 million.
Other	3 million.
Total	84 million.

* as defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 18 UGM–84L HARPOON Block II All-Up-Round Missiles, 1 UGM–84L HARPOON telemetry exercise section, containers, Guidance Control Units (GCU) spares, recertification and reconfiguration support, spare and repair parts, tools and tool sets, support equipment, personnel training and training equipment, publications and technical data, U.S. Government and contractor engineering and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Navy (AKT)

(v) *Prior Related Cases, if any:*

FMS case AJF–$42M–31Jul06

FMS case AJG–$71M–31Jul06

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None.

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Annex attached.

(viii) *Date Report Delivered to Congress:* 22 May 2012.

Policy Justification

Republic of Korea—UGM–84L HARPOON Missiles

The Government of Korea has requested a possible sale of 18 UGM–84L HARPOON Block II All-Up-Round Missiles, 1 UGM–84L HARPOON telemetry exercise section, containers, Guidance Control Units (GCU) spares, recertification and reconfiguration support, spare and repair parts, tools and tool sets, support equipment, personnel training and training equipment, publications and technical data, U.S. Government and contractor engineering and logistics support services, and other related elements of logistics support. The estimated cost is $84 million.

The Government of Korea is one of the major political and economic powers in East Asia and the Western Pacific and a key partner of the United States in ensuring peace and stability in that region. It is vital to the U.S. national interest to assist our Korean ally in developing and maintaining a strong and ready self-defense capability, which will contribute to an acceptable military balance in the area.

The Republic of Korea (ROK) intends to use the HARPOON Block II missiles to supplement its existing HARPOON missile capability. This will enhance the capabilities of the ROK Navy and support its regional influence, a key factor in Overseas Contingency Operations. The acquisition of the HARPOON Block II missiles and support will supplement current weapon inventories and bring the ROK's Naval Anti-Surface Warfare performance up to existing regional baselines. The proposed sale will provide a defensive capability while enhancing interoperability with the U.S. and other allied forces. Korea will have no difficulty absorbing these additional missiles into its armed forces.

The proposed sale of HARPOON missiles will not alter the basic military balance in the region.

The prime contractor will be the Boeing Company in St Louis, Missouri. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor personnel to Korea. However, U.S. Government or contractor personnel in-country visits will be required on a temporary basis for program, technical, and management oversight and support requirements.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 12–06

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

Annex—Item No. vii

(vii) Sensitivity of Technology:

1. The UGM–84L Block II HARPOON missile (UGM–84L) is a submarine launched Anti-Surface Warfare (AsuW) missile that provides Naval forces with a capability to engage targets in both the ''blue water'' regions and the littorals of the world. The HARPOON Block II missile, including publications, documentation, operations, supply, maintenance, and training to be conveyed with this proposed sale have the highest classification level of Secret. The HARPOON Block II missile incorporates components, software, and technical design information that are considered sensitive. The following HARPOON Block II missile components being conveyed by the proposed sale that are considered sensitive and are classified include:

a. (U) The Radar seeker
b. (U) The GPS/INS System
c. (U) Operational Flight Program (OFP) Software
d. (U) Missile operational characteristics and performance data

These elements are essential to the ability of the HARPOON Block II missile to selectively engage hostile targets under a wide range of operational, tactical and environmental conditions.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2012–13291 Filed 5–31–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–09]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–09 with attached transmittal, and policy justification.

Dated: May 29, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON VA 22202-5408

MAY 2 2 2012

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 12-09, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Bangladesh for defense articles and services estimated to cost $180 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification

Transmittal No. 12–09

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* Bangladesh

(ii) *Total Estimated Value:*

Major Defense Equipment *	$ 0 million.
Other	180 million.
Total	180 million.

* as defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* provides the regeneration, overhaul, modifications, and logistics support of 4 Lockheed Martin C–130E United States Air Force (USAF) baseline aircraft and 20 T56AA Rolls-Royce engines being provided as grant Excess Defense Articles (EDA). Also included are transportation, aircraft ferry support, repair and return, spare and repair parts, support equipment, tools and test equipment, technical data and publications, personnel training and training equipment, U.S. Government and contractor engineering, technical, and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Air Force (SAO)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* 22 May 2012

Policy Justification

Bangladesh—C–130E Aircraft

The Government of Bangladesh has requested a possible sale to provide the regeneration, overhaul, modifications, and logistics support of 4 Lockheed Martin C–130E United States Air Force (USAF) baseline aircraft and 20 T56AA Rolls-Royce engines being provided as grant Excess Defense Articles (EDA). Also included are transportation, aircraft ferry support, repair and return, spare and repair parts, support equipment, tools and test equipment, technical data and publications, personnel training and training equipment, U.S. Government and contractor engineering, technical, and logistics support services, and other related elements of logistics support. The estimated cost is $180 million.

The proposed sale will contribute to the foreign policy and national security of the United States by enabling the Bangladesh Air Force (BAF) to use its C–130 fleet to respond more capably to humanitarian assistance and disaster relief needs in the region and support Bangladesh's significant contributions to United Nations Peacekeeping Operations, and support operations to counter violent extremist organizations. It will also improve the commonality and interoperability of the BAF and the U.S. Air Force.

The proposed sale of support will help to modernize the BAF's aging cargo aircraft fleet. The C–130E will provide Bangladesh with an improved capability for the movement of cargo and personnel in humanitarian missions.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be determined via competitive bid. There are no known offset agreements proposed in connection with this potential sale

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Bangladesh.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2012–13292 Filed 5–31–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the meeting is to receive update briefings from the Marine Corps and the Army on their assignment policies, and a briefing from the Sexual Assault Prevention and Response Office (SAPRO) on sexual assault prevention measures. Additionally, the Committee will provide a summary of their 2012 installation visits. The Committee will also receive briefings on deployed women's health issues. The meeting is open to the public, subject to the availability of space.

Interested persons may submit a written statement for consideration by the Defense Advisory Committee on Women in the Services. Individuals submitting a written statement must submit their statement to the Point of Contact listed at the address in **FOR FURTHER INFORMATION CONTACT** no later than 5 p.m., Friday, June 22, 2012. If a written statement is not received by Friday, June 22, 2012, prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Advisory Committee on Women in the Services until its next open meeting. The Designated Federal Officer will review all timely submissions with the Defense Advisory Committee on Women in the Services Chairperson and ensure they are provided to the members of the Defense Advisory Committee on Women in the Services. If members of the public are interested in making an oral statement, a written statement should be submitted to the address in **FOR FURTHER INFORMATION CONTACT**. After reviewing the written comments, the Chairperson and the Designated Federal Officer will determine who of the requesting persons will be able to make an oral presentation of their issue during an open portion of this meeting or at a future meeting. Determination of who will be making an oral presentation is at the sole discretion of the Committee Chair and the Designated Federal Officer and will depend on time available and if the topics are relevant to the Committee's activities. Two minutes will be allotted to persons desiring to make an oral presentation. Oral presentations by members of the public will be permitted only on Wednesday, June 27, 2012 from 11 a.m. to 12 p.m. in front of the full Committee. Number of oral presentations to be made will depend on the number of requests received from members of the public.

DATES: June 26, 2012, 8:30 a.m.–3:30 p.m.; June 27, 2012, 8:30 a.m.–12 p.m.

ADDRESSES: 300 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Bowling or DACOWITS Staff at 4000 Defense Pentagon, Room 2C548A, Washington, DC 20301–4000. *Robert.bowling@osd.mil.* Telephone (703) 697–2122. Fax (703) 614–6233.

SUPPLEMENTARY INFORMATION:

Meeting Agenda

Tuesday, June 26, 2012, 8:30 a.m.–3:30 p.m.

—Welcome, introductions, and announcements.
—Briefing—Assignment Policy, USMC.
—Briefing—Assignment Policy, USA.
—Briefing—Summary of Installation Visits.
—Briefing—Sexual Assault Prevention Measures, SAPRO.

Wednesday, June 27, 2012, 8:30 a.m.–12 p.m.

—Welcome, introductions, and announcements.
—Briefing—Deployed Women's Health Issues.
—Briefing—Deployed Women's Health Study Results.
—Public Comment Period.

Dated: May 29, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–13318 Filed 5–31–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 282. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 282 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Mrs. Sonia Malik, 571–372–1276.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 281. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows: The changes in Civilian Bulletin 282 are updated rates for Puerto Rico.

Dated: May 29, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA						
[OTHER]						
01/01 - 12/31	110		105		215	2/1/2012
ADAK						
01/01 - 12/31	120		79		199	7/1/2003
ANCHORAGE [INCL NAV RES]						
05/16 - 09/30	181		104		285	2/1/2012
10/01 - 05/15	99		96		195	2/1/2012
BARROW						
01/01 - 12/31	159		95		254	10/1/2002
BETHEL						
01/01 - 12/31	157		99		256	7/1/2011
BETTLES						
01/01 - 12/31	135		62		197	10/1/2004
CLEAR AB						
01/01 - 12/31	90		82		172	10/1/2006
COLDFOOT						
01/01 - 12/31	165		70		235	10/1/2006
COPPER CENTER						
09/16 - 05/14	99		95		194	2/1/2012
05/15 - 09/15	149		99		248	2/1/2012
CORDOVA						
01/01 - 12/31	95		109		204	2/1/2012
CRAIG						
10/01 - 04/30	99		78		177	11/1/2011
05/01 - 09/30	129		81		210	11/1/2011
DELTA JUNCTION						
01/01 - 12/31	129		62		191	2/1/2012
DENALI NATIONAL PARK						
05/01 - 09/30	159		101		260	2/1/2012
10/01 - 04/30	89		94		183	2/1/2012

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
DILLINGHAM						
05/15 - 10/15	185		111		296	1/1/2011
10/16 - 05/14	169		109		278	1/1/2011
DUTCH HARBOR-UNALASKA						
01/01 - 12/31	121		102		223	2/1/2012
EARECKSON AIR STATION						
01/01 - 12/31	90		77		167	6/1/2007
EIELSON AFB						
09/16 - 05/14	75		92		167	2/1/2012
05/15 - 09/15	175		102		277	2/1/2012
ELFIN COVE						
01/01 - 12/31	175		46		221	2/1/2012
ELMENDORF AFB						
05/16 - 09/30	181		104		285	2/1/2012
10/01 - 05/15	99		96		195	2/1/2012
FAIRBANKS						
05/15 - 09/15	175		102		277	2/1/2012
09/16 - 05/14	75		92		167	2/1/2012
FOOTLOOSE						
01/01 - 12/31	175		18		193	10/1/2002
FT. GREELY						
01/01 - 12/31	129		62		191	2/1/2012
FT. RICHARDSON						
05/16 - 09/30	181		104		285	2/1/2012
10/01 - 05/15	99		96		195	2/1/2012
FT. WAINWRIGHT						
05/15 - 09/15	175		102		277	2/1/2012
09/16 - 05/14	75		92		167	2/1/2012
GAMBELL						
01/01 - 12/31	105		39		144	1/1/2011
GLENNALLEN						
05/15 - 09/15	149		99		248	2/1/2012
09/16 - 05/14	99		95		194	2/1/2012
HAINES						

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
01/01	- 12/31	107		101		208	1/1/2011
HEALY							
05/01	- 09/30	159		101		260	2/1/2012
10/01	- 04/30	89		94		183	2/1/2012
HOMER							
09/16	- 05/04	79		108		187	2/1/2012
05/05	- 09/15	167		117		284	2/1/2012
JUNEAU							
05/16	- 09/15	149		104		253	2/1/2012
09/16	- 05/15	135		103		238	2/1/2012
KAKTOVIK							
01/01	- 12/31	165		86		251	10/1/2002
KAVIK CAMP							
01/01	- 12/31	150		69		219	10/1/2002
KENAI-SOLDOTNA							
05/01	- 08/31	179		102		281	2/1/2012
09/01	- 04/30	79		92		171	2/1/2012
KENNICOTT							
01/01	- 12/31	175		111		286	2/1/2012
KETCHIKAN							
05/01	- 09/30	140		97		237	2/1/2012
10/01	- 04/30	99		94		193	2/1/2012
KING SALMON							
05/01	- 10/01	225		91		316	10/1/2002
10/02	- 04/30	125		81		206	10/1/2002
KLAWOCK							
05/01	- 09/30	129		81		210	11/1/2011
10/01	- 04/30	99		78		177	11/1/2011
KODIAK							
05/01	- 09/30	152		93		245	2/1/2012
10/01	- 04/30	100		88		188	2/1/2012
KOTZEBUE							
01/01	- 12/31	219		115		334	2/1/2012
KULIS AGS							

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
10/01	- 05/15	99		96		195	2/1/2012
05/16	- 09/30	181		104		285	2/1/2012
MCCARTHY							
01/01	- 12/31	175		111		286	2/1/2012
MCGRATH							
01/01	- 12/31	165		69		234	10/1/2006
MURPHY DOME							
05/15	- 09/15	175		102		277	2/1/2012
09/16	- 05/14	75		92		167	2/1/2012
NOME							
01/01	- 12/31	140		132		272	2/1/2012
NUIQSUT							
01/01	- 12/31	180		53		233	10/1/2002
PETERSBURG							
01/01	- 12/31	110		105		215	2/1/2012
POINT HOPE							
01/01	- 12/31	200		49		249	1/1/2011
POINT LAY							
01/01	- 12/31	225		51		276	8/1/2011
PORT ALEXANDER							
01/01	- 12/31	150		43		193	8/1/2010
PORT ALSWORTH							
01/01	- 12/31	135		88		223	10/1/2002
PRUDHOE BAY							
01/01	- 12/31	170		68		238	1/1/2011
SELDOVIA							
05/05	- 09/15	167		117		284	2/1/2012
09/16	- 05/04	79		108		187	2/1/2012
SEWARD							
05/01	- 10/15	172		103		275	2/1/2012
10/16	- 04/30	85		95		180	2/1/2012
SITKA-MT. EDGECUMBE							
10/01	- 04/30	99		90		189	2/1/2012
05/01	- 09/30	119		92		211	2/1/2012

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
SKAGWAY							
10/01	- 04/30	99		94		193	2/1/2012
05/01	- 09/30	140		97		237	2/1/2012
SLANA							
05/01	- 09/30	139		55		194	2/1/2005
10/01	- 04/30	99		55		154	2/1/2005
SPRUCE CAPE							
05/01	- 09/30	152		93		245	2/1/2012
10/01	- 04/30	100		88		188	2/1/2012
ST. GEORGE							
01/01	- 12/31	129		55		184	6/1/2004
TALKEETNA							
01/01	- 12/31	100		89		189	10/1/2002
TANANA							
01/01	- 12/31	140		132		272	2/1/2012
TOK							
05/15	- 09/30	95		89		184	2/1/2012
10/01	- 05/14	85		88		173	2/1/2012
UMIAT							
01/01	- 12/31	350		64		414	2/1/2012
VALDEZ							
05/16	- 09/14	159		89		248	2/1/2012
09/15	- 05/15	119		85		204	2/1/2012
WAINWRIGHT							
01/01	- 12/31	175		83		258	1/1/2011
WASILLA							
05/01	- 09/30	153		90		243	2/1/2012
10/01	- 04/30	89		84		173	2/1/2012
WRANGELL							
10/01	- 04/30	99		94		193	2/1/2012
05/01	- 09/30	140		97		237	2/1/2012
YAKUTAT							
01/01	- 12/31	105		94		199	1/1/2011
AMERICAN SAMOA							

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
	AMERICAN SAMOA						
	01/01 - 12/31	139		122		261	12/1/2010
GUAM							
	GUAM (INCL ALL MIL INSTAL)						
	01/01 - 12/31	159		86		245	7/1/2011
HAWAII							
	[OTHER]						
	07/01 - 08/21	114		118		232	5/1/2012
	08/22 - 06/30	104		117		221	5/1/2012
	CAMP H M SMITH						
	01/01 - 12/31	177		126		303	5/1/2012
	EASTPAC NAVAL COMP TELE AREA						
	01/01 - 12/31	177		126		303	5/1/2012
	FT. DERUSSEY						
	01/01 - 12/31	177		126		303	5/1/2012
	FT. SHAFTER						
	01/01 - 12/31	177		126		303	5/1/2012
	HICKAM AFB						
	01/01 - 12/31	177		126		303	5/1/2012
	HONOLULU						
	01/01 - 12/31	177		126		303	5/1/2012
	ISLE OF HAWAII: HILO						
	07/01 - 08/21	114		118		232	5/1/2012
	08/22 - 06/30	104		117		221	5/1/2012
	ISLE OF HAWAII: OTHER						
	01/01 - 12/31	180		129		309	5/1/2012
	ISLE OF KAUAI						
	01/01 - 12/31	243		131		374	5/1/2012
	ISLE OF MAUI						
	01/01 - 12/31	209		137		346	5/1/2012
	ISLE OF OAHU						
	01/01 - 12/31	177		126		303	5/1/2012
	KEKAHA PACIFIC MISSILE RANGE FAC						

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
01/01 - 12/31		243		131		374	5/1/2012
KILAUEA MILITARY CAMP							
07/01 - 08/21		114		118		232	5/1/2012
08/22 - 06/30		104		117		221	5/1/2012
LANAI							
01/01 - 12/31		249		155		404	5/1/2012
LUALUALEI NAVAL MAGAZINE							
01/01 - 12/31		177		126		303	5/1/2012
MCB HAWAII							
01/01 - 12/31		177		126		303	5/1/2012
MOLOKAI							
01/01 - 12/31		131		89		220	5/1/2012
NAS BARBERS POINT							
01/01 - 12/31		177		126		303	5/1/2012
PEARL HARBOR							
01/01 - 12/31		177		126		303	5/1/2012
SCHOFIELD BARRACKS							
01/01 - 12/31		177		126		303	5/1/2012
WHEELER ARMY AIRFIELD							
01/01 - 12/31		177		126		303	5/1/2012
MIDWAY ISLANDS							
MIDWAY ISLANDS							
01/01 - 12/31		125		68		193	5/1/2012
NORTHERN MARIANA ISLANDS							
[OTHER]							
01/01 - 12/31		55		72		127	10/1/2002
ROTA							
01/01 - 12/31		130		93		223	7/1/2011
SAIPAN							
01/01 - 12/31		121		94		215	7/1/2011
TINIAN							
01/01 - 12/31		85		74		159	7/1/2011
PUERTO RICO							

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
[OTHER]							
01/01	- 12/31	109		112		221	6/1/2012
AGUADILLA							
01/01	- 12/31	124		113		237	9/1/2010
BAYAMON							
01/01	- 12/31	195		128		323	9/1/2010
CAROLINA							
01/01	- 12/31	195		128		323	9/1/2010
CEIBA							
01/01	- 12/31	210		141		351	11/1/2010
CULEBRA							
01/01	- 12/31	150		98		248	3/1/2012
FAJARDO [INCL ROOSEVELT RDS NAVSTAT]							
01/01	- 12/31	210		141		351	11/1/2010
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]							
01/01	- 12/31	195		128		323	9/1/2010
HUMACAO							
01/01	- 12/31	210		141		351	11/1/2010
LUIS MUNOZ MARIN IAP AGS							
01/01	- 12/31	195		128		323	9/1/2010
LUQUILLO							
01/01	- 12/31	210		141		351	11/1/2010
MAYAGUEZ							
01/01	- 12/31	109		112		221	9/1/2010
PONCE							
01/01	- 12/31	149		87		236	9/1/2010
RIO GRANDE							
01/01	- 12/31	169		123		292	6/1/2012
SABANA SECA [INCL ALL MILITARY]							
01/01	- 12/31	195		128		323	9/1/2010
SAN JUAN & NAV RES STA							
01/01	- 12/31	195		128		323	9/1/2010
VIEQUES							

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
01/01 - 12/31		175		95		270	3/1/2012
VIRGIN ISLANDS (U.S.)							
ST. CROIX							
04/15 - 12/14		135		92		227	5/1/2006
12/15 - 04/14		187		97		284	5/1/2006
ST. JOHN							
04/15 - 12/14		163		98		261	5/1/2006
12/15 - 04/14		220		104		324	5/1/2006
ST. THOMAS							
04/15 - 12/14		240		105		345	5/1/2006
12/15 - 04/14		299		111		410	5/1/2006
WAKE ISLAND							
WAKE ISLAND							
01/01 - 12/31		145		42		187	7/1/2011

[FR Doc. 2012–13296 Filed 5–31–12; 8:45 am]
BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests; Office of Postsecondary Education; Assessing Program Performance, National Resource Center, Business and International Education, and Undergraduate International Studies and Foreign Language Programs Surveys

SUMMARY: The U.S. Department of Education will conduct an assessment of the National Resource Center (NRC), Business and International Education (BIE), and Undergraduate and International Studies and Foreign Language programs (UISFL). Institutions of Higher Education will be asked to provide quantitative data on their internationalization and capacity building efforts on each campus.

DATES: Interested persons are invited to submit comments on or before July 31, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04868. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Assessing Program Performance, National Resource Center, Business and International Education, and Undergraduate International Studies and Foreign Language Programs Surveys.

OMB Control Number: Pending.

Type of Review: New.

Total Estimated Number of Annual Responses: 838.

Total Estimated Number of Annual Burden Hours: 23,608.

Abstract: Institutions of Higher Education will be asked to provide quantitative data on their internationalization and capacity building efforts on each campus. The data collected will be used to document the implementation of individual projects as well as of the program collectively and to inform future studies looking at long-term impact. The results from the surveys will be used to learn what is being accomplished by the NRC, BIE, and UISFL Programs and to inform program improvement in the future.

Dated: May 29, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–13368 Filed 5–31–12; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Proposed Priorities; Gaining Early Awareness and Readiness for Undergraduate Programs; College Savings Account Research Demonstration Project

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information:

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.334.

Proposed Priorities: Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP)—College Savings Account Research Demonstration Project

SUMMARY: The Assistant Secretary for Postsecondary Education proposes priorities for a research demonstration project for recipients of new GEAR UP State awards in Fiscal Year (FY) 2011 or FY 2012. Through these priorities, the Department of Education (Department) seeks to determine the effectiveness of pairing federally supported college savings accounts with GEAR UP activities as part of an overall college access and success strategy.

DATES: We must receive your comments on or before July 2, 2012.

ADDRESSES: Address all comments about this notice to James Davis, U.S. Department of Education, 1990 K Street NW., Room 7007, Washington, DC 20006–8513.

If you prefer to send your comments by email, use the following address: *james.davis@ed.gov.* You must include the term ''GEAR UP Proposed Priorities'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: James Davis: (202) 502–7802; or, by email: *james.davis@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to identify clearly the specific proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 7007, 1990 K Street NW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The GEAR UP program is a discretionary grant program that provides financial support for academic and related support services to eligible low-income students, including English learners and students with disabilities, to enable them to obtain a secondary school diploma and to prepare for and succeed in postsecondary education.

Program Authority: 20 U.S.C. 1070a–21–1070a–28.

Applicable Program Regulations: 34 CFR part 694.

Proposed Priorities

Background

Introduction

Research suggests that students with savings accounts may be up to seven times more likely to attend college, even when controlling for other factors (Elliot, Jung, and Friedline, 2010: *http://csd.wustl.edu/Publications/Documents/WP10-01.pdf*). Yet 25 percent of U.S. households (and 50 percent of Black and Hispanic households) are unbanked or underbanked, meaning that they either do not have a Federally insured deposit account or that they have an account but still rely on costly alternative financial services. Young adults are disproportionately unbanked and underbanked (*www.economicinclusion.gov*). At the same time, a lack of financial literacy and indicators thereof— such as overestimating the price of college, not applying for Federal student aid, and borrowing expensive private education loans before exhausting lower cost Federal student loan alternatives—are a major roadblock on the path to college access, affordability, and success for too many students and families (*http://www2.ed.gov/legislation/FedRegister/announcements/2010-3/072610c.html*). Partially as a result of these findings, the Secretary of Education and the Chairmen of the Federal Deposit Insurance Corporation and the National Credit Union Administration announced, in November 2010, a new interagency agreement to increase partnerships among schools, financial institutions, and other stakeholders to help students gain access to deposit accounts, learn about money, and save for college. The Department's press statement on this partnership can be found at: *www.ed.gov/news/press-releases/fdic-and-ncua-chairs-join-education-secretary-announce-partnership-promote-finan*, and the Secretary's recently recorded video encouraging participation at: *http://www.youtube.com/watch?v=uxOoXeOkh_w.* Section 404D(b)(10)(E) of the Higher Education Act of 1965, as amended (HEA), expressly authorizes GEAR UP program grantees to design projects that promote participating students' secondary school completion and enrollment in postsecondary education by means that include promotion of financial literacy and economic literacy education or counseling. The FY 2011 GEAR UP application included an invitational priority for financial access and college savings accounts. Although no favorable consideration was promised or granted in the review process to applicants that chose to address this priority, nearly two thirds of the 66 successful applicants included it in their proposals (*http://www.ed.gov/news/press-releases/new-gear-grants-awarded-help-more-275000-middle-schoolers-get-pathway-success-co*). In response to strong interest in this invitational priority and the Secretary's desire to expand the Nation's knowledge base on the relationship between asset-building strategies and education outcomes for students, the Department is proposing priorities for a competition through which the Department intends to award approximately $8.7 million in FY 2012 and additional FY 2013 GEAR UP funds, if necessary, for a college savings account research demonstration project.

Effectiveness of the Use of College Savings Accounts

Prior research suggests a need for improved financial literacy and asset building strategies geared toward college enrollment, but there is no conclusive evidence about the effectiveness of these strategies. Many low-income families do not understand that they may be eligible for financial aid and, therefore, do not apply (see, for example, Baum and Payea 2011).

Although knowledge about financial aid is important, it appears that low-income families may need to be educated about the importance of college savings. Even low-income families that apply for and receive financial aid for postsecondary education often face substantial out-of-pocket college costs. The average out-of-pocket cost for low-income students enrolled full-time in a public four-year institution in academic year 2007–08 was $10,400 per year (National Center for Education Statistics, December 2010).

Federal and State tax policies provide incentives to families to save for college; contributions to Coverdell Education Savings Accounts and State 529 Plans (qualified tuition programs created by section 529 of the tax code) are often deductible on State income taxes, returns accrued on the investments are mostly free from Federal taxes, and distributions for the beneficiaries' college costs are tax exempt. In addition, 15 States now provide seed money or matching funds for moderate- and low-income families that contribute to State 529 plans.[1] Despite these incentives, participation rates in college savings plans are relatively low, especially among middle- and lower-income families. Previous research also shows that 90 percent of families with college savings plans have college degrees and that the median income of families with these plans was $100,000 (Dynarski, 2004 and Ma, 2004). One survey found that only 36 percent of families with incomes less than $30,000 per year had college savings (Sallie Mae, 2010).

Given the low participation rates in college savings plans for low-income families, education about financial planning for college and financial incentives to encourage saving may be an important part of any college savings intervention. The Saving for Education, Entrepreneurship, and Downpayment (SEED) for Oklahoma Kids demonstration offered initial deposit and matching funds for State 529 plan accounts for a randomly selected group of infants born in Oklahoma in 2007. Their parents were more likely to open and deposit funds in State 529 plan accounts than a randomly selected control group not offered the seed and matching funds. In addition, low-income parents with greater financial literacy were more likely to open the savings accounts than those with less financial literacy (Nam, Lim, Clancy, Zager, and Sherraden, 2011; Huang, Nam, Sherraden, 2012).

While there are and have been efforts to test savings and education outcomes associated with State 529 college savings plans and other college savings accounts (Long and Bettinger, 2011; the

[1] Information obtained in January 2012 from *www.savingsforcollege.com,* using options ''compare by features, program match on contributions.''

SEED for Oklahoma Kids Demonstration), further research is necessary. The demonstration project that the Department is proposing in this notice would be the first of its kind: A rigorous, randomized, and controlled evaluation of the effect of providing students with college savings accounts in the context of comprehensive educational support services provided by GEAR UP grantees. The proposed evaluation would involve using a lottery to select one-half of the schools within each participating grant to be ''treatment schools'' that offer the services described in the already approved GEAR UP application in addition to GEAR UP supported savings accounts, financial incentives, and financial counseling (treatment services). The other one-half of the schools in each participating grant will be selected by lottery to be ''control schools'' that offer services described in the already approved GEAR UP application with no savings accounts, additional financial incentives, or additional counseling intervention. The impact of the college savings account intervention—-above and beyond usual GEAR UP services—will be measured by comparing outcomes of students enrolled in treatment and control group schools.

Under this research demonstration project, the Department is proposing two priorities.

Background

Proposed Priority 1: Funding Eligibility

Under Proposed Priority 1, the Department would limit demonstration project eligibility for funding to current State GEAR UP grantees that received new awards in FY 2011 or FY 2012, that select participating students beginning not later than seventh grade using the cohort approach (see section 404B(d)(1) of the HEA), and that have their cohort of students entering the ninth grade in the 2013–2014 academic year.

We would limit eligible State applicants to those whose current GEAR UP projects select participants using the cohort approach because we understand that these State GEAR UP grantees may readily arrange to have participating schools' or Local Educational Agencies' (LEAs') directory information provided to account administrators or trustees to assist with establishing and managing savings accounts for GEAR UP students. Conversely, we are concerned that permitting State GEAR UP grantees using a priority-student method of selecting participating GEAR UP students (see section 404D(c) of the HEA) will lead to such substantial effort and cost of providing requisite information on individual students to the account administrators or trustees as to seriously undermine the research demonstration project itself. This is because, under the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations (20 U.S.C. 1232g and 34 CFR part 99), since not all students in the grade are eligible to receive GEAR UP services, LEAs and schools may not disclose their ''directory information'' because the receipt of GEAR UP services is not itself ''directory information.'' Thus, under FERPA, the disclosure of personally identifiable information from the education records of a subgroup of students receiving GEAR UP services to the account administrator or trustee in order to assist with establishing and managing any savings account, whether funded with Federal GEAR UP funds or private funds, would require prior, written, parental consent.

Under this priority, GEAR UP State grantees that use the cohort approach and that wish to participate in this project must demonstrate their willingness, capacity, and comprehensive plan to carry out the college savings account and financial counseling intervention and participate in the rigorous evaluation, as described in this notice. Accordingly, each applicant must list in its application multiple GEAR UP high schools that serve at least 50 GEAR UP participants who will be in 9th grade during the 2013–2014 academic year, identify the names of the GEAR UP high schools expected to participate in the demonstration, and identify the number of GEAR UP participants at each school expected to be in 9th grade during the 2013–2014 academic year.

Under this proposed priority, to be eligible for funding, an applicant may not currently be implementing a systematic college savings program that provides matching funds for deposits in college savings accounts held on behalf of GEAR UP participants in high schools included in this demonstration project. We are proposing to limit eligibility in this manner because the demonstration project will not provide a valid test of the benefits of these accounts if schools assigned by lottery to the control group are already implementing college savings accounts for GEAR UP students.

We note that because of the limited funds available, it is not possible to use Federal GEAR UP dollars to provide seed funding and savings matches to all students served by GEAR UP State grants. The limited number of possible recipients of seed funding and savings matches for these savings accounts, however, allows for a control group, which is an essential feature of a rigorous study. Under the study design, created by the Department's Institute of Education Sciences, States and the Federal government will be able to rely on evidence developed to inform future policy decisions about college readiness and success, financial decision-making, and savings accounts—whether that means scaling up savings account programs or conducting further research.

The Department intends to rank eligible applicant States according to scores assigned by non-Federal reviewers using the Department's general selection criteria in 34 CFR 75.210. The number of States selected to receive awards will depend on the number of schools and students served by each State GEAR UP program in the demonstration project. Unless the need to achieve the correct sample size requires the Department to select applicants out of order, the Department intends to select States, one after another, beginning with the highest-ranked State as scored by non-Federal reviewers until there is a total across the selected States of 20,000 students who are enrolled in the 9th grade in fall 2013.

Proposed Priority 2: College Savings Accounts Research and Demonstration Project

The lynchpin of this priority is the premise that the combination of supported personal savings accounts and associated financial incentives and counseling will have a positive effect on a variety of measures of college readiness and financial well-being, such as the amount of savings available to support postsecondary education, attitudes about the ability to attend and afford college, academic readiness as measured by participation and performance in college-preparatory courses, postsecondary education enrollment, financial literacy and decision-making, and student borrowing and work decisions.

This proposed priority thus has two main components. The first describes the requirements for establishing, operating, and having students participate in college savings accounts and financial counseling. The second describes the research evaluation that will be conducted to assess the effect of providing these college savings accounts and related financial counseling to students and their parents.

College Savings Accounts and Financial Counseling

Under this demonstration project, approximately 10,000 low-income

students served by selected GEAR UP State grants would receive approximately $200 in seed funding that would be placed into personal savings accounts held for these students in trust, pending their graduation from high school and enrollment in a college or university. Matching funds would also be available to encourage students, their families, their parents' employers, community-based organizations, religious organizations, and others to contribute further to students' accounts.

More specifically, a successful applicant would use GEAR UP funds awarded under this competition to provide $200 as an initial deposit in each GEAR UP student's account as well as match contributions for each student up to $10 every month for a maximum of four years. Thus, a student who receives the maximum match would finish high school with at least $1,160 in a personal college savings account—the $200 Federal seed, plus $480 in personal contributions, plus $480 in Federal matching funds. A successful applicant also would be required to maximize the benefit of the matching funds by providing periodic opportunities for the student to make ''catch-up'' deposits. To protect the integrity of the evaluation, a successful applicant would not be permitted to provide additional seed or matching funding to students participating in the GEAR UP college savings research demonstration project.

An applicant would be required to limit student eligibility to receive college savings accounts, financial incentives to encourage saving, and financial counseling (which would be above and beyond any counseling provided to all GEAR UP students) to only those students enrolled in the 9th grade in one of the randomly selected treatment high schools (as described in the *Research Evaluation* section of this priority) in the fall of 2013. Any Federal GEAR UP funds that remain in the student's account six years after the student's scheduled completion of secondary school must be returned to the Department.

Each successful applicant would be required to maintain all Federal GEAR UP funds in a single ''notional'' account that permits returning unused Federal GEAR UP funds to the Department as described in the Proposed Priority 2: *College Savings Accounts Research Demonstration Project* section of this notice, separate from any non-Federal funds, and to keep track of the amount of Federal GEAR UP seed and matching funds and accrued interest earned by each student. The non-Federal funds would be maintained separately by the account administrator, as described below. While Federal and non-Federal funds would be in separate accounts, each student with these accounts would be able to experience them as having a single account in that the student would see the account balance as reflecting both the total amount of Federal funds earned as well as any non-Federal funds in the account.

Each successful applicant would be required to designate a savings account trustee to manage the account funds and a savings account administrator to hold the account funds. Applicants that do not identify the savings account trustee and savings account administrator must identify the process by which these entities would be selected. The savings account trustee would oversee the accounts held by the savings account administrator and approve withdrawals and other account activities, such as transfers of non-Federal funds to other persons, if permitted. Notwithstanding any existing title IV regulation, qualified withdrawals of Federal and non-Federal funds would not count toward Federal student aid eligibility. The trustee would need to be a State agency, such as a State Department of Treasury, Office of the Governor, Lieutenant Governor, or Comptroller, a tax-exempt non-profit organization or foundation, or for-profit organization or business with demonstrated expertise and experience in successfully managing financial services. The purpose of requiring the participation of the trustee would be to ensure that Federal funds are only spent on qualified educational expenses, as that term is used in section 404E of the HEA upon a student's enrollment in an institution of higher education eligible to participate in student financial assistance under Title IV of the HEA.

The savings account administrator would be required to hold account funds, accept deposits, and issue qualified withdrawals. The account administrator would need to be a Federally or State regulated financial institution, such as an investment firm that manages a State's 529 plan or a Federally insured bank or credit union that partners with the State to administer proposed GEAR UP savings accounts.

The savings account trustee and savings account administrator would need to be separate and distinct entities, not part of the same organization, with the exception that both trustee and administrator could be part of or affiliated with the State government but in different agencies.

During the grant project period, modest administrative fees, not to exceed one percent of account balances, could be paid to the savings account trustee and administrator with Federal GEAR UP funds to cover expenses related to the GEAR UP college savings account demonstration project.

If awarded a grant, the applicant would be required to develop rules on when withdrawals would and would not be permissible (*i.e.,* rules on qualified withdrawals) and on transfers of non-Federal funds to other persons. For example, a State could prohibit withdrawals of non-Federal, individual contributions for what the applicant determines to be a non-qualified expense unless the account holder reaches a specified age. Alternatively, a State could offer a savings plan with existing disbursement rules, such as 529 plans or Coverdell plans, or it could determine its own rules in consultation with the account administrator and account trustee. Since, as described in the College Savings Accounts and Financial Counseling section of this notice (paragraph (d) Withdrawal and Transfer of Federal Funds), withdrawals for non-qualified uses would forfeit the associated Federal match, the applicant also would need to establish for the account trustee the conditions under which funds can be withdrawn for qualified uses, transferred to other persons such as siblings, or accessed at a particular age. The rules developed by a successful applicant would have to require at least that the account trustee oversee all qualified withdrawals and transfers.

States would also need to provide participating students and families in the schools whose students are selected for savings accounts and related financial counseling (the ''treatment schools''; see the following subsection *Research evaluation*) with general and targeted savings account and related financial counseling designed to help them understand the benefits of saving for college, encourage them to save, increase their understanding of relevant mathematical and financial concepts, and prepare them to make sound financial decisions. To ensure GEAR UP or school staff are sufficiently prepared to provide this counseling, the applicant would need to agree to identify highly qualified individuals to provide the counseling and require counselors to participate in Department-provided professional development for GEAR UP or school staff.

Lastly, section 404C(b) of the HEA requires that unless the State has received a waiver under section 404C(b)(2), a State receiving a GEAR UP program award must provide not less than 50 percent of the costs of each

year's project from State, local, institutional or private funds. See also 34 C.F.R. § 694.7 through § 694.9. For purposes of this non-Federal match requirement, the Department proposes to treat grants awarded under this research demonstration project as supplementing a State's regular GEAR UP award, albeit for a defined purpose.

Research Evaluation

The proposed evaluation would require 10,000 students to receive the services described in the already approved, regular State GEAR UP application as well as GEAR UP supported savings accounts, financial incentives, and financial counseling (treatment services). An additional 10,000 students will serve as a control group and receive services described in the already approved, regular State GEAR UP application with no savings accounts, additional financial incentives, or additional counseling intervention. While, for purposes of the evaluation methodology, each of the participating schools would need to serve at least 50 GEAR UP participants who will be in 9th grade during the 2013–2014 academic year, the goal is to attain a sample of approximately 100 schools, each serving an average of 200 students enrolled in 9th grade. Thus, under this proposed priority, each applicant would need to agree to the random assignment by the evaluation contractor of one-half of the high schools to receive treatment services (treatment schools) and one-half to be in the control group (control schools).

In addition to any other GEAR UP services offered by these schools, treatment schools must offer to GEAR UP participants who are in the 9th grade in the 2013–14 academic year the college savings account and counseling intervention described in the *College Savings Account and Financial Counseling* section of this priority. States receiving grants under this competition must continue to offer the matching funds and counseling to GEAR UP students in treatment schools through the students' expected dates of high school graduation in spring 2017. The remainder of the identified high schools will be control schools that will not offer the college savings accounts and counseling intervention but will continue to offer regular GEAR UP services.

The evaluation will examine the effect of the college savings account and counseling intervention on student and family behaviors and their attitudes associated with attending college. The evaluation will also provide descriptive information on the implementation of the college savings account and counseling intervention. To ensure that the evaluation contractor has the information needed to conduct this examination, this priority would require applicants and those local educational agency and school officials submitting letters of support, as described below, to agree to participate in the data collection conducted by the Department's evaluator, which will include, among other items, surveys of State project directors and staff regarding implementation of the project and surveys of students and parents about their participation in GEAR UP program activities in general and other college savings programs. The Department's evaluator also will collect certain information about students in the treatment schools and control schools and data on the college savings accounts established under this project.

An applicant is also required to distribute letters to parents or guardians notifying them about plans for administration of the student survey by the evaluator and the release of designated ''directory information'' from the education records of the student to the savings account administrator, the savings account trustee, or both, as needed to establish and manage the college savings accounts, along with a form that allows parents or guardians to opt out of participation in the savings accounts. (The Department will provide a sample parent/guardian letter and opt out form.)

The LEAs in the applications must take steps to allow for student information to be shared in compliance with Federal law with the savings account administrator, the savings account trustee, or both, as needed to establish and manage the college savings accounts. Under the provisions of FERPA and its implementing regulations, each of the LEAs in the application or schools therein must have provided public notice that the district or school has designated as ''directory information'' under FERPA the student's name, grade level, address, and date of birth. The purpose of requiring that this information be designated as ''directory information'' under FERPA is to allow both college savings accounts—the ''notional'' account that contains the Federal GEAR UP funds and the account that contains family or other private savings—to be established, if possible, through disclosure of this information to the savings account administrator, the savings account trustee, or both. We do not believe that a school or LEA would need to disclose students' Social Security numbers or other personally identifiable information from the students' education records that has not been designated as directory information to establish college savings accounts; however, we recognize that at some point students or their parents may be required to provide a Social Security Number or other Taxpayer Identification Number to the account administrator and/or trustee for tax purposes, that having such a requirement may depend on the type of account opened and whether the funds in that account are Federal or private, and that, under FERPA, a school or LEA may not disclose a Social Security Number to the account administrator and/or trustee without prior, written, parental consent. We invite comments from the public on this topic.

We also request public comment on the merits and drawbacks of different types of college savings accounts that States would employ to implement the *College Savings Accounts and Financial Counseling* section of this notice. In particular:

Should the notice of final priorities for this program require a certain type of account for all students across all participating GEAR UP programs?

Is there any arrangement under which college savings accounts that involve only Federal funds and college savings accounts that would also involve private funds may be established without need for a parent's or child's Social Security Number or other Taxpayer Identification Number?

When finalizing this requirement, we will take into consideration the public comments we receive on these issues.

In addition, in accordance with FERPA, if any parents or guardians of a student have opted out of the disclosure of this ''directory information,'' the school or LEA will not provide ''directory information'' on that student to the savings account administrator or the savings account trustee and that student will not have a savings account with GEAR UP seed money opened in his or her name, unless the parent or guardian of that student provides consent under 34 CFR 99.30.

To ensure there is adequate support for the applicant's participation in this research demonstration project, we are also proposing that a State include in its application—

- Letters from both the relevant State Educational Agency (SEA), or other State agency that is the GEAR UP grantee, and participating LEAs agreeing to provide the relevant data to the Department's evaluator, including rosters of students and their administrative records for students in both the treatment group and the control

group in order to permit an evaluation of this Federally-supported education program;

• A letter from the principal of each high school identified in the application agreeing to participate in all aspects of the evaluation and grant; and

• A letter from the superintendent of each LEA overseeing the schools in the evaluation, agreeing to (1) cooperate in all aspects of the evaluation, including random assignment of schools, allowing the GEAR UP program to offer the college savings account and counseling intervention, and (2) ensure that the LEA or schools in the LEA have publically designated as ''directory information'' student's names, addresses, grade levels, and dates of birth so that this information can be provided, assuming that the parents and guardians have not opted out of the disclosure of their child's ''directory information,'' to the savings account administrator, the savings account trustee, or both to assist with establishing and managing the college savings accounts for students in the treatment schools that are in the 9th grade in 2013–2014 academic year.

Moreover, while we intend, if possible, that the provision of school or LEA directory information to the account administrator, trustee, or both would be sufficient to establish the student savings accounts, we understand that different schools and LEAs may define directory information differently and have differing policies for its disclosure. Therefore, the LEA superintendent's letter of support would also need to include—

• An assurance that the LEA has in place, or will have in place by July 1, 2013, directory information policies that allow for student information, including the student's name, grade level, address, and date of birth, to be shared in compliance with Federal law with the savings account administrator, the savings account trustee, or both, as needed to assist with establishing and managing the college savings accounts.

Proposed Priorities

Under 34 CFR 75.105(c), the Secretary proposes the following priorities for a research demonstration project to determine the effectiveness of implementing college savings accounts and providing financial counseling in conjunction with other GEAR UP activities as part of an overall college access and success strategy. These proposed priorities are as follows:

Proposed Priority 1: Funding Eligibility

To meet this priority, an applicant must—

(a) Have received a new GEAR UP State grant in FY 2011 or FY 2012 that supports activities in multiple high schools, each of which must serve at least 50 GEAR UP participants who will be in 9th grade during the 2013–2014 academic year;

(b) Use the cohort approach (see section 404B(d)(1) of the HEA) to select participating GEAR UP students; and

(c) Identify in its application the names of the GEAR UP high schools expected to participate in the demonstration and the number of GEAR UP participants expected to be in 9th grade during the 2013–2014 academic year at each GEAR UP school identified.

Proposed Priority 2: College Savings Accounts Research Demonstration Project

To meet this priority, and as described in the *College Savings Accounts and Financial Counseling* section of this priority, an applicant must submit in its application a comprehensive plan for providing (1) students in the GEAR UP high schools identified by the applicant with safe and affordable deposit accounts at federally insured banks, credit unions, or other institutions that offer safe and affordable financial services consistent with provisions of this Priority, and (2) financial incentives to encourage saving and related financial counseling to students and parents.

An applicant also must agree in its application to participate in an evaluation of this college savings account demonstration project that will examine the effect of college savings accounts and counseling on student and family behaviors and attitudes associated with college enrollment, as described in the *Research Evaluation* section of this priority. The Department's Institute of Education Sciences (IES) in partnership with the Office of Postsecondary Education (OPE) will oversee the evaluation, which will be conducted by an IES evaluation contractor.

I. College Savings Accounts and Financial Counseling

The applicant must describe in its application its plan for implementing college savings accounts and financial counseling, including how it will, preferably at the time of application, but no later than in time to have all savings accounts operational before the start of the 2013–2014 school year—

(a) Student Savings Accounts

(1) In partnership with a financial institution, provide students with an account that allows saving in an interest-bearing, Federally insured deposit account, U.S. Government Treasury securities, or a fully guaranteed savings option within a 529 College Savings plan. Accounts may also present students and families with investment options that present risks in exchange for the potential for larger returns but that are in no way guaranteed.

(2) Ensure that Federal funds are maintained in a single ''notional'' account that is in fact separate from any non-Federal funds, tracks the amount of Federal GEAR UP seed and matching funds and accrued interest earned by each student, permits each student to see both the Federal funds and associated interest earned as well as any non-Federal funds in a single account statement, and is invested only in federally insured vehicles or U.S. Treasury securities;

(3) Ensure that the non-Federal investments are in U.S. Government Treasury securities or a low- or no-fee age-based fund unless the parents or student choose otherwise;

(4) Open savings accounts for students in automatic or nearly automatic fashion and describe how the savings account enrollment approach entails or approximates an automatic enrollment framework. Automatic enrollment means parents and students are not required to opt into the account, but may opt out of it. If parents and students take no action, the account is opened. Action is required to decline participation.

Note: Applicants are also encouraged to propose automatic savings options, such as automatic payroll deductions by parents of participating students.

(5) Ensure that individual deposits could be made easily and at no cost by the student, the student's parents, or others on the student's behalf; that deposits would be able to be made online, including on mobile devices, in person at convenient locations, and by mail; and that account information would be viewable online, including on mobile devices; and

(6) Ensure that funds are held in the name of the account trustee described in paragraph (k) of part I of this priority with the participating students named as beneficiaries.

(b) Federal Seed and Matching

Provide for Federal seed and matching of Federal funds in student savings accounts for students in participating treatment high schools as follows:

(1) Within two weeks of the beginning of students' 9th grade school year in the

fall of 2013, seed each student's account with $200 in Federal GEAR UP funding.

(2) Each month, for every contribution up to $10 beyond the initial seed amount the student or family deposits into the student's account, deposit an additional equal size contribution up to $10 of Federal GEAR UP funding into the account, for a maximum of $120 in Federal matching funds each year for a maximum of four years.

(3) Notwithstanding the monthly cap on contributions referenced in paragraph two above, once per quarter during each calendar year during the project period, on a date approved by the Department, offer students and parents a two-week catch-up period if the student has not earned the maximum monthly match for that year and encourage students and families to make contributions at least sufficient to earn up to the maximum Federal match.

(4) Ensure that if, at the end of each calendar year, the student has not exhausted the Federal match, any unearned matching funds would no longer be available to that student or to the applicant and would be returned to the Department.

(c) Non-Federal Seed and Matching

Not provide additional seed or matching funding from GEAR UP or non-GEAR UP resources to participating students.

(d) Withdrawal and Transfer of Federal Funds

Provide for the withdrawal and transfer of Federal GEAR UP funds as follows:

(1) The applicant must ensure that withdrawals of Federal GEAR UP funds are made only upon approval of the savings account trustee and are only made from the account to eligible students, or to an institution of higher education on behalf of a student upon that student's enrollment in an HEA title IV-eligible institution of higher education for the purposes of paying for tuition, fees, course materials, living expenses, and other covered educational expenses as defined in the HEA.

(2) An account trustee may not withdraw Federal GEAR UP funds for non-qualified purposes and may not transfer them to other individuals. If this rule is broken, the Department may require the applicant to terminate its relationship with the trustee and select a different entity to serve as savings account trustee. The initial trustee may be subject to penalties for misuse of Federal funds.

(e) Withdrawal and Transfer of Non-Federal Funds

Establish rules for the withdrawal and transfer of non-Federal funds, which must include a requirement that any withdrawal or transfer of non-Federal funds must be overseen by the account trustee. A withdrawal of non-Federal funds from the savings account for non-qualified purposes will result in a removal of Federal matching funds that have been contributed on behalf of the student if the amount of non-Federal funds remaining in the account after the non-qualified withdrawal is less than the total amount of Federal matching funds contributed (not including the $200 Federal seed).

For example, if student and parent contributions total $140, Federal GEAR UP matches total $120, and the student withdraws $50 in non-Federal funds for non-qualified purposes, then $30 in Federal GEAR UP matching funds earned up until that point would be removed from the account because the amount of non-Federal funds remaining in the account after the non-qualified withdrawal—$90—is $30 less than the amount of Federal matching funds contributed. The Federal matching funds could be earned back in catch-up periods during that same year. The $200 seed money provided with Federal GEAR UP funds will not be removed from the account.

(f) Student Eligibility

Establish student eligibility to receive Federal GEAR UP funds as seed and match for GEAR UP student savings accounts as follows:

(1) Students must be enrolled in the 9th grade in one of the randomly selected treatment high schools (as described in the *Research Evaluation* section of this priority) in the fall of 2013.

(2) If a student does not use funds in the student's account within six years of his or her scheduled completion of secondary school, the undisbursed Federal GEAR UP funds must be returned to the Department.

(3) Students who transfer from a GEAR UP high school to a non-GEAR UP high school during the project period will continue to remain eligible for the matching funds from the grantee.

(g) Financial Counseling

Provide general and targeted (that is, specific to each individual's account and financial circumstances) savings account and financial counseling to students in the treatment group and to their parents. Counseling should encourage regular saving and prepare students and their families to make informed financial decisions about college and other matters. Counseling must include at least 12 hours per year of counseling for students and at least biannual counseling meetings for parents, which must include a review of the contributions to the account and any interest accrued. The counseling must be in addition to, and may not serve as, the financial aid, financial literacy, or college savings counseling already provided as part of regular GEAR UP services.

(h) Staff Professional Development and Coordination With the Department

(1) Agree to participate in Department-provided professional development for the GEAR UP or school staff who will deliver the financial planning and counseling described in paragraph (g) of part I of this priority.

(2) Ensure that the project director of the project participates in a meeting in Washington, DC, in the fall of 2012 to discuss the logistical and administrative issues in setting up the college savings accounts.

(i) Site Coordination

Designate a site coordinator for each GEAR UP high school that participates in the demonstration and describe the role of the coordinator and to whom he or she will be accountable. The site coordinators in schools that are randomly selected to provide college savings accounts and financial counseling (treatment schools) have responsibility, exercised consistent with the State's plan and approved project application, for ensuring that their schools meet all requirements for participating in the college savings demonstration project. Coordinators must, for example, ensure that college savings accounts are opened and seeded within two weeks of the start of 9th grade, that related financial counseling and coaching are provided to participating students and parents, and that schools cooperate with data collection for the evaluation. (See the *Research Evaluation* section of this priority for further information on selection of the treatment schools). Site coordinators in schools that are not participating in the college savings account and counseling intervention (control schools) must ensure that their schools cooperate with the data collection for the evaluation.

(j) Savings Account Administrator

Select a savings account administrator to hold the account funds, accept deposits, and issue qualified withdrawals. The applicant must

identify the account administrator in the application or describe the process by which the account administrator will be selected.

The account administrator must be able to fulfill its role until all Federal funds have been disbursed or returned to the Department. During the grant project period, modest administrative fees, not to exceed one percent of account balances, could be paid to the savings account administrator with Federal GEAR UP funds to cover expenses related to the GEAR UP college savings account demonstration project.

(k) Savings Account Trustee

Select a savings account trustee to manage the account funds and approve withdrawals and other account activities. The account trustee must have demonstrated experience in successfully managing financial services. The applicant must identify the account trustee in the application or describe the process by which the account trustee will be selected.

The account trustee must be able to fulfill its role until all Federal funds have been disbursed or returned to the Department. The account trustee may not be a student's parent or other individual, and must be separate and distinct from the account administrator. The trustee must be a State agency, such as a State Department of Treasury, Office of the Governor, Lieutenant Governor, or Comptroller, a tax-exempt non-profit organization or foundation, or for-profit organization or business with demonstrated expertise and experience in successfully managing financial services. During the grant project period, modest administrative fees, not to exceed one percent of account balances, could be paid to the savings account trustee with Federal GEAR UP funds to cover expenses related to the GEAR UP college savings account demonstration project.

(l) Grantee Coordinator

Specify a person or persons at the State and LEA level who will administer and coordinate all components of the demonstration, including provision of services provided by the GEAR UP high schools, monitoring the rules established for and activities carried out by the savings account administrators and trustees including distribution of letters, notifying parents or guardians about the administration of the student survey by the evaluator and about the release of designated ''directory information'' from the education records of the student to the savings account administrator, the savings account trustee, or both, as needed to assist with establishing and managing the college savings accounts, and distributing forms enabling parents or guardians to opt out of participation in the research demonstration project. (The Department will provide a sample parent/guardian letter and opt out form.) The grantee coordinator must also include aggregate information about the college savings account demonstration project in the grantee's annual performance report to the Department, including the number of accounts opened and the total amount of Federal GEAR UP matching funds deposited on behalf of students. The grantee coordinator must also respond to the evaluators' annual request for information on individual student accounts, including the timing and amounts of disbursements of seed and matching funds, and the student's name, address, and date of birth.

(m) Directory Information Policies

Include only districts or schools that will have directory information policies in place prior to July 1, 2013, that allow for student information to be shared in compliance with Federal law with the savings account administrator, the savings account trustee, or both, as needed to establish and manage the college savings accounts. Under the provisions of FERPA and its implementing regulations (20 U.S.C. 1232g and 34 CFR part 99), each of the LEAs or schools in the application must have provided public notice that the district or schools have designated as ''directory information'' under FERPA the student's name, address, grade level, and date of birth. In addition, in accordance with FERPA, if any parents or guardians of a student has opted out of the disclosure of this ''directory information,'' the school or LEA will not provide the ''directory information'' for that student to the savings account administrator, the savings account trustee, or both, as needed to assist with establishing the college savings accounts, and savings accounts with GEAR UP seed money will not be opened in his or her name, unless the parent or guardian of that student provides consent under 34 CFR 99.30.

(n) Grantee Non-Federal Match Requirement

Meet the statutory non-Federal match requirement (see section 404C(b) of the HEA.)

Note: A State grantee would meet the statutory match requirement tied to these additional research demonstration project funds through any ''over-matched'' non-Federal funds it already is committed to providing under its regular GEAR UP application. A State that would need to provide other non-Federal funds in order to meet the statutory match requirement tied to GEAR UP funds provided for research demonstration project would need to include with its application a budget of how it proposed to do so. Contributions of students, families, parents' employers, community-based organizations, religious organizations, and others to student savings account could be treated as a matching contribution, but, if during any project year these private contributions to savings account were less than anticipated, a State would have to ensure by the end of each project year that it had met the annual matching requirement through other non-Federal contributions to this project or the regular GEAR UP activities.

(o) Budget

Provide a budget and budget narrative with projected charges of Federal GEAR UP funds and any non-Federal matching contributions, that describes the expected costs of implementing the proposed project, including provision of payment to the account administrator, the account trustee, or both of reasonable costs for managing the savings accounts according to requirements of this section.

II. Research Evaluation

The applicant must describe in its application its agreement to the following:

(a) *Random Assignment of Schools.* An applicant must—

(1) Agree to a random assignment by the evaluation contractor of one-half of the high schools identified in its application to for their students to receive treatment services (treatment schools). In addition to any GEAR UP services offered at these schools, GEAR UP projects must offer, at these treatment schools, the college savings account and financial counseling intervention in accordance with priority 1 (Funding Eligibility). The students in the remainder of the high schools (control schools) will not receive the college savings account and financial counseling intervention but will continue to receive regular GEAR UP services.

(2) Agree not to offer a program that provides seed or matching funds for college savings accounts in the control schools for the duration of the GEAR UP grant.

(b) *Data Collection.* (1) The applicant and the LEA(s) and GEAR UP high schools that would like to implement college savings accounts (some of which will become control schools) must agree to participate in the data collection conducted by the Department's evaluator, which will include the following:

(i) Two surveys of GEAR UP project directors at the SEA or LEA level and site coordinators at each school about the implementation of the college savings account and counseling intervention, including the extent to which the college savings account counseling was provided in the treatment schools and counseling and other services were provided under the GEAR UP grant in both treatment and control schools;

(ii) Two surveys of GEAR UP students about their participation in GEAR UP program activities and other college access programs; their expectations about college enrollment and costs; their knowledge about college savings and financial aid; their financial literacy; their plans for enrollment in college-preparatory courses; and their financial behaviors, including the extent to which they are saving for college;

(iii) Two surveys of parents of students participating in the GEAR UP program, in a form that will be comprehensible to parents of English language learners, about their participation in GEAR UP program activities and other college access programs; their expectations about their child's college enrollment and costs; their knowledge about college savings and financial aid; their financial literacy; and their financial decisions, including the extent to which they are saving for college;

(iv) For treatment schools, data on the extent to which their staff attend the required professional development;

(v) For both treatment and control schools, rosters of all GEAR UP participants who are in the 9th grade in fall 2013, including the names of the students, and other identifying information (such as their dates of birth, zip codes, or district or school identification numbers) that will enable the Department's evaluator to request the administrative records from the State or LEA about the appropriate students;

(vi) Access to the appropriate State or LEA school administrative records, which will be used to measure student characteristics and achievement prior to the 9th grade, student attendance, course taking patterns, and credits in grades 9–12 for students in the treatment and control schools;

(viii) From the grantee, annual information on individual student accounts, including the timing and amounts of disbursements of seed and matching funds, and the student's name, address, and date of birth.

(c) *Letters of Support.* Each applicant must include in its application the following:

(1) Letters of support from the relevant LEAs. Unless the SEA agrees in the application to provide this same data on its own, these letters of support also must contain the LEA's agreement to provide the relevant school records data to the evaluation contractor, including the following school records data for GEAR UP participants who are enrolled in the 9th grade in the treatment schools and control schools in the fall 2013, regardless of whether the student has continued to be enrolled in his or her original high school:

(i) Scores on State or district-administrated assessments of reading and math for the 7th and 8th grades and high school years;

(ii) High school attendance;

(iii) High school courses in which the student was enrolled and grades and credits received for those courses;

(iv) Demographic information such as gender, race/ethnicity, parents' educational attainment, English proficiency, and the extent to which a language other than English is spoken at home;

(v) Whether the student is certified as eligible for free or reduced price lunch through the National School Lunch Program; and

(vi) Whether the student has an individualized education program.

(2) A letter from the principal of each high school identified in the application agreeing to participate in all aspects of the evaluation and grant, including:

(i) Random assignment of the high school;

(ii) If randomly selected to implement the intervention, allowing the GEAR UP program to offer the college savings account and counseling intervention to eligible GEAR UP participants at the principal's high school; and

(iii) Regardless of whether a school is in the treatment or control group, provision to the evaluation contractor of rosters of GEAR UP participants who are in the 9th grade in fall 2013, including identifying information (such as student names, dates of birth, zip codes, or district or school identification numbers) that will enable the contractor to request the administrative records from the State or LEA about the appropriate students.

(3) Letter from the superintendent of each LEA overseeing the schools in the evaluation, agreeing to all aspects of the evaluation and grant, including—

(i) Random assignment of the high schools;

(ii) If randomly selected to implement the intervention, an agreement allowing the State GEAR UP program to offer the college savings account and financial counseling to eligible GEAR UP participants consistent with the priorities and requirements in this notice; and

(iii) Regardless of whether the schools are in the treatment or control group, an agreement to provide to the evaluation contractor rosters of GEAR UP participants who are in the 9th grade in fall 2013, including identifying information (such as student names, dates of birth, zip codes, or district or school identification numbers) that will enable the contractor to request the administrative records from the State or LEA about the appropriate students.

(iv) An agreement to have district or school directory information policies in place prior to July 1, 2013 that allow for student information to be shared in compliance with Federal law with the savings account administrator, the savings account trustee, or both, as needed to establish and manage the college savings accounts. Under the provisions of the FERPA and its implementing regulations, each of the LEAs in the application or schools therein must have provided public notice that the district or school has designated as ''directory information'' under FERPA the student's name, grade level, address, and date of birth. In addition, in accordance with FERPA, if any parents or guardians of a student has opted out of the disclosure of this student directory information, the school or LEA will not provide ''directory information'' on that student to the savings account administrator or the savings account trustee and savings accounts with GEAR UP seed money will not be opened in his or her name, unless the parent or guardian of that student provides consent under 34 CFR 99.30.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priorities:

We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use one or more of these priorities, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and therefore subject to the requirements of the Executive order and subject to review by Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments, or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed these priorities under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these proposed priorities only on a reasoned determination that the benefits justify the costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. The Department believes that this proposed regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits of this regulatory action. The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently. The potential benefits are those resulting from the provision of college savings accounts, financial incentives, and financial counseling to 10,000 GEAR UP students and parents, and the evidence gained about the effect of providing these in the context of GEAR UP support services.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can 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). To use PDF you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 25, 2012.

Eduardo M. Ochoa,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2012–13232 Filed 5–31–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Developing Large-Scale Renewable Energy Projects at Federal Facilities Using Private Capital Draft

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of availability.

SUMMARY: DOE is releasing for public comment a draft guidebook entitled Federal Renewable Energy Guide: Developing Large-Scale Renewable Energy Projects at Federal Facilities Using Private Capital. DOE will consider comments and recommendations on the draft guidebook, which is available at: *http://www1.eere.energy.gov/femp/pdfs/largereguide.pdf*.

DATES: DOE will accept comments, data, and information regarding this draft guidebook no later than July 2, 2012.

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

1. *Email to: FEMPLargeREGuide@ee.doe.gov.* Include ''Comments—[Name/Organization]'' in the subject line of the email. Please include the full body of your comments in the text of the message or as an attachment.

2. *Mail:* Address written comments to Anne Crawley, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Federal Energy Management Program (EE–2L), 1000 Independence Avenue SW., Washington, DC 20585–0121.

Because of potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Crawley, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Federal Energy Management Program (EE–2L), 1000 Independence Ave. SW., Washington, DC 20585–0121; (202) 586–1505; *Anne.Crawley@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: The draft guidebook, entitled Federal Renewable Energy Guide: Developing Large-Scale Renewable Energy Projects at Federal Facilities Using Private Capital, provides guidance to Federal agencies on how to establish a project development framework to allow Federal agencies to work effectively with private developers on the implementation of large-scale renewable energy projects.

FEMP specifically requests comment and information with respect to the following issues:

1. Does Figure 3 in Section I sufficiently identify the private sector's motivations and constraints related to large-scale renewable energy projects?

2. Does Section II accurately describe the general process that renewable energy developers and financiers use to develop large-scale renewable energy projects?

3. Does the graphic in Figure 1 reasonably portray the developer and financier processes? If not, please recommend changes.

4. Do you agree with the seven categories of project development outlined in Section II and expanded on in Appendix B?

5. Are the terms referring to the stages of the process that developers and financiers use to develop large-scale renewable energy projects accurate? Would you use any different terms? If so, can you define those terms for a general audience?

6. What items would you add to the checklists in Appendix B?

7. Would renewable energy developers be interested in pursuing large-scale renewable energy projects at Federal facilities that follow the steps outlined in this guidebook?

8. What, if anything, is this guidebook missing?

This draft guidebook is available at: *http://www1.eere.energy.gov/femp/pdfs/largereguide.pdf.* DOE will accept comments and information regarding the draft guidebook no later than the date specified in the **DATES** section.

More information on DOE's FEMP is available at: *http://www1.eere.energy.gov/femp/*.

Issued in Washington, DC, on May 24, 2012.

Timothy D. Unruh,

Program Manager, DOE–EERE Federal Energy Management Program.

[FR Doc. 2012–13287 Filed 5–31–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13213–003]

Lock 14 Hydro Partners; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major License (5 Megawatts or less).

b. *Project No.:* 13213–003.

c. *Date filed:* May 16, 2012.

d. *Applicant:* Lock 14 Hydro Partners, LLC.

e. *Name of Project:* Heidelberg Hydroelectric Project.

f. *Location:* On the Kentucky River, near the Town of Heidelberg, Lee County Kentucky. Lands managed by the Federal government are located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r) .

h. *Applicant Contact:* David Brown Kinloch, Lock 14 Hydro Partners, 414 S. Wenzel Street, Louisville, Kentucky 40204, (502) 589–0975.

i. *FERC Contact:* Michael Spencer, (202) 502–6093, *michael.spencer@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* July 15, 2012.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

m. The application is not ready for environmental analysis at this time.

n. *The Heidelberg Project consists of:* (1) An existing concrete lock and dam; (2) an existing 182-acre reservoir having a storage capacity of 1,820-acre-feet; (3) a powerhouse integral to the abandoned lock containing four generating units for a total installed capacity of 2,640 kilowatts; and (4) a 1,000-foot-long, 12.47 kilo-Volt transmission line. The project is estimated to generate an average of 10,484,000 kilowatt-hours annually. The dam and existing project facilities are owned by the Kentucky River Authority.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Kentucky State Historic Preservation Officer (SHPO), as required by section 106 of the National Historic Preservation Act and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. *Procedural schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance—July 2012

Issue Scoping Document 1 for comments—August 2012

Comments on Scoping Document 1—October 2012

Issue Scoping Document 2—January 2013

Issue notice of ready for environmental analysis—January 2013

Commission issues EA, draft EA, or draft EIS—July 2013

Comments on EA or draft EA or draft EIS—August 2013

Commission issues final EA or final EIS—October 2013

Dated: May 24, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–13268 Filed 5–31–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 3939–022]

City of Denton; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Types of Application:* Surrender of License.

b. *Project Nos.:* 3939–022.

c. *Date Filed:* October 11, 2011.

d. *Applicants:* City of Denton.

e. *Name of Projects:* Ray Roberts Hydroelectric Project.

f. *Location:* The project is located on the Elm Fork of the Trinity River, in Denton County, Texas, occupying lands of the United States and utilizing a dam and reservoir constructed and operated by the U.S. Army Corps of Engineers. The nearest town is Aubrey, Texas.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Tim Fisher, Assistant Director of Water Utilities, 901–A Texas Street, Denton, Texas 26209, (940) 349–7190.

i. *FERC Contact:* Mr. Anthony DeLuca, (202) 502–6632, *Anthony.deluca@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice. All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments.

Please include the project numbers (P–3939–022) on any comments, motions, or recommendations filed.

k. *Description of Request:* The applicant proposes to surrender the license for the Ray Roberts Hydroelectric Project. The applicant states they decided to withdraw from the power generation business because it became more economical and operationally less complex for the City to purchase its power needs rather than to generate power itself. At the same time, the City's water department saw potential value in the Project facilities to provide an improved low-flow release system for the City's water treatment plant.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) Bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary

basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license surrender. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: May 25, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–13276 Filed 5–31–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–461–000]

Eastern Shore Natural Gas Company; Notice of Application

Take notice that on May 14, 2012, Eastern Shore Natural Gas Company (Eastern Shore), filed in Docket No. CP12–461–000, an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, requesting authorization to construct and operate approximately 11 miles of 16-inch diameter mainline looping, including two mainline valve assemblies and appurtenances, and a new pressure regulating station, all located in New Castle and Kent Counties, Delaware, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Mr. William B. Zipf, Vice-President, Eastern Shore Natural Gas Company, 1110 Forrest Avenue, Suite 201, Dover, Delaware, 19904, or by calling (302) 736–7624 (telephone) or (302) 734–6745 (fax) *wzipf@esng.com,* or to Mr. Glen A. DiEleuterio, P.E., Engineering Projects Manager, Eastern Shore Natural Gas Company, 1110 Forrest Avenue, Suite 201, Dover, Delaware, 19904, or by calling (302) 734–6710, ext. 6723 (telephone) or (302) 735–5602 (fax) *gdieleuterio@esng.com.*

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: June 15, 2012.

Dated: May 25, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–13275 Filed 5–31–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13214–003]

Lock 12 Hydro Partners; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major License (5 Megawatts or less).

b. *Project No.:* 13214–003.

c. *Date filed:* May 16, 2012.

d. *Applicant:* Lock 12 Hydro Partners, LLC.

e. *Name of Project:* Ravenna Hydroelectric Project.

f. *Location:* On the Kentucky River, near the Town of Ravenna, Estill County Kentucky. Lands managed by the Federal government are located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* David Brown Kinloch, Lock 12 Hydro Partners, 414 S. Wenzel Street, Louisville, Kentucky 40204, (502) 589–0975.

i. *FERC Contact:* Michael Spencer, (202) 502–6093, *michael.spencer@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* July 15, 2012.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

m. The application is not ready for environmental analysis at this time.

n. *The Ravenna Project consists of:* (1) An existing concrete lock and dam; (2) an existing 345-acre reservoir having a storage capacity of 3,450-acre-feet; (3) a powerhouse within the abandoned lock chamber containing four generating units for a total installed capacity of 2,640 kilowatts; and (4) a 1,500-foot-long, 12.47 kilo-Volt transmission line. The project is estimated to generate an average of 10,673,000 kilowatt-hours annually. The dam and existing project facilities are owned by the Kentucky River Authority.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Kentucky State Historic Preservation Officer (SHPO), as required by section 106 of the National Historic Preservation Act and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. *Procedural schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance—July 2012
Issue Scoping Document 1 for comments—August 2012
Comments on Scoping Document 1—October 2012
Issue Scoping Document 2—January 2013
Issue notice of ready for environmental analysis—January 2013
Commission issues EA, draft EA, or draft EIS—July 2013
Comments on EA or draft EA or draft EIS—August 2013
Commission issues final EA or final EIS—October 2013

Dated: May 24, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–13269 Filed 5–31–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8866–010]

William J. Stevenson, Estate of Lynn E. Stevenson, Black Canyon Bliss, LLC; Notice of Application for Transfer of License, and Soliciting Comments and Motions To Intervene

On April 23, 2012, William J. Stevenson, Estate of Lynn E. Stevenson (transferor) and Black Canyon Bliss, LLC (transferee) filed an application for the transfer of license for the Stevenson No. 2 Project (FERC No. 8866), located on an unnamed stream which is a tributary of the Snake River in Gooding County, Idaho.

Applicants seek Commission approval to transfer the license for the Stevenson No. 2 Project from the transferor to the transferee.

Applicants' Contact: Mr. David Coats, Black Canyon Bliss, LLC, c/o Triple C Concrete, 224 Read Avenue, Rupert, ID 83350 and Christopher Capps, Project Manager, 314 River Road, Bliss, ID 83314 (208) 312–1958.

FERC Contact: Patricia W. Gillis (202) 502–8735, *patricia.gillis@ferc.gov.*

Deadline for filing comments and motions to intervene: 30 days from the issuance date of this notice. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1) and the instructions on the Commission's Web site under *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original plus seven copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. More information about this project can be viewed or printed on the eLibrary link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–8866) in the docket number field to access the

document. For assistance, call toll-free 1–866–208–3372.

Dated: May 24, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–13267 Filed 5–31–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF09–8–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Intent To Prepare an Environmental Impact Statement for the Planned Rockaway Delivery Lateral Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Rockaway Delivery Lateral Project involving construction and operation of facilities by Transcontinental Gas Pipe Line Company, LLC (Transco) in Queens and Kings Counties, New York. The Commission will use this EIS in its decisionmaking process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EIS. Please note that the scoping period will close on June 25, 2012.

You may submit comments in written form or verbally. Further details on how to submit written comments are in the Public Participation section of this notice. In lieu of or in addition to sending written comments, the Commission invites you to attend the public scoping meetings scheduled as follows:

Date and time	Location
June 12, 2012, 7:00 p.m. EDT	Aviator Sports & Events Center, 3159 Flatbush Avenue, Brooklyn, NY 11234.
June 13, 2012, 7:00 p.m. EDT	Knights of Columbus Rockaway Council 2672, 333 Beach 90 Street, Rockaway Beach, NY 11693.

The public meetings are designed to provide you with more detailed information and another opportunity to offer your comments on the planned project. Transco representatives will be present one hour before each meeting to describe their proposal, present maps, and answer questions. Interested groups and individuals are encouraged to attend the meetings and to present comments on the issues they believe should be addressed in the EIS. A transcript of each meeting will be made so that your comments will be accurately recorded.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this planned project and encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically-asked questions, including how to participate in the Commission's proceedings.

Summary of the Planned Project

Transco plans to modify its existing pipeline system in Lower New York Bay by adding a new pipeline lateral and a meter and regulating (M&R) station. Specifically, Transco plans to construct and operate 3.20 miles of 26-inch-diameter pipeline from its existing Lower New York Bay Lateral (LNYBL), in the Atlantic Ocean, to an onshore interconnect with the National Grid pipeline system on the Rockaway Peninsula in Queens County, New York. At the offshore interconnect with the LNYBL Transco would also install a subsea tie-in assembly that includes a pig [1] launcher and main line valve.

Transco would construct the first 2.17 miles of offshore pipeline from the LNYBL toward shore using conventional marine lay and trenching methods. The remaining 0.65 mile of offshore pipeline, and all but 0.03 mile of onshore pipeline to the planned onshore interconnect with National Grid's system on the Rockaway Peninsula would be installed using horizontal directional drill (HDD) technology. Use of the HDD method would disturb a small amount of land at the HDD entry location, which would be located on the Tri-borough Bridge and Tunnel Authority's right-of-way, and a small amount of seabed at the offshore HDD exit location. However, the land and seabed between the HDD entry and exit locations, which includes the beach and other Gateway National Recreation Area lands, would not be disturbed or directly impacted.

Transco would construct the new M&R station inside two existing, unused hangars within the Gateway National Recreation Area that are located on the southern end of Floyd Bennett Field. Transco would also install inlet and outlet piping to connect the M&R station to a proposed National Grid pipeline along Flatbush Avenue. A general overview of the major project facilities is shown in Appendix 1.[2]

Transco indicates that the planned project would provide increased natural gas supplies and enhanced system reliability to natural gas distributors throughout the New York City area. Once completed, the project would be capable of delivering up to 647 thousand dekatherms per day (MDth/d) of natural gas (including 100 MDth/d of new incremental supply) from Transco's pipeline system to National Grid's distribution system in Brooklyn, New York. The lateral would also give

[1] A pig is an internal tool that can be used to clean and dry a pipeline and/or to inspect the pipeline for damage. A pig launcher is the launching station from which the pig is launched.

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

National Grid the flexibility to shift existing natural gas supplies from its existing Long Beach delivery point to the new delivery point on Flatbush Avenue. This, in turn, would alleviate the existing capacity constraints on National Grid's system in the Rockaways.

Pending project approvals, Transco anticipates beginning construction in September 2013, with a projected in-service date of November 2014. The intervening period between receipt of agency approvals and commencement of construction would be used to obtain congressional authorization and final National Park Service permits and easements in order to allow the project to occur within the Gateway National Recreation Area.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [3] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EIS. We will consider all filed comments during the preparation of the EIS.

In the EIS we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- Water resources, fisheries, and wetlands;
- Vegetation and wildlife;
- Endangered and threatened species;
- Land use;
- Socioeconomics;
- Cultural resources;
- Air quality and noise;
- Public safety; and
- Cumulative impacts.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EIS.

The EIS will present our independent analysis of the issues. We will publish and distribute the draft EIS for public comment. After the comment period, we will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section beginning on page 7.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate with us in the preparation of the EIS.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. Currently, the NPS, U.S. Environmental Protection Agency (EPA), and U.S. Army Corps of Engineers (COE) have expressed their intention to participate as cooperating agencies in the preparation of the EIS to satisfy their NEPA responsibilities related to this project.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO(s) as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EIS for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the planned facilities and the environmental information provided by Transco. This preliminary list of issues may change based on your comments and our analysis.

- Water Resources:
  - Impacts on off-shore and near-shore water quality.
  - Assessment of contingency plans for inadvertent releases of drilling fluids associated with horizontal directional drills.
  - Assessment of alternative marine construction methods.
- Cultural Resources:
  - Consideration of the special historic status of Jacob Riis Park and Floyd Bennett Field.
  - Impact of the planned M&R facility on the historic hangers at Floyd Bennett Field.
- Land Use, Recreation and Special Interest Areas, and Visual Resources:
  - Impacts on the Gateway National Recreation Area and existing uses within the recreation area, including Jacob Riis Park, Floyd Bennett Field, and Jamaica Bay National Wildlife Refuge.
  - Impacts on marine navigation and use of offshore waters.
- Air Quality and Noise:
  - Effects on the local air quality and noise environment from construction and operation of the planned facilities.
- Reliability and Safety:
  - Assessment of hazards associated with natural gas pipelines and aboveground facilities.
  - Potential for project-related fire hazards.
  - Evacuation plans
- Alternatives:
  - Assessment of existing systems, alternative system configurations, and alternative routes to reduce or avoid environmental impacts.
  - Evaluation of alternatives to avoid the Gateway National Recreation Area.
  - Assessment of alternative metering and regulating station locations.

[3] "We," "us," and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[5] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register for Historic Places.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before June 25, 2012.

(1) For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (PF09–8–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.* You can file your comments electronically using the *eComment* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.''* You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing;'' or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

Copies of the completed draft EIS will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

Once Transco files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are available on the Commission's Web site at: *http://www.ferc.gov/help/how-to/intervene.asp.* Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., PF09–8). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Finally, Transco has established an Internet Web site for its project at *http://www.energy.williams.com/Rockaway.* The site includes a project overview, contact information, regulatory overview, and construction procedures. Transco will continue to update its Web site with information about the project. You can also request additional information by calling Transco at (866) 455–9103.

Dated: May 25, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–13279 Filed 5–31–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF12–6–000]

Columbia Gas Transmission, LLC; Notice of Environmental Onsite Review

On June 13 and 14, 2012, the Office of Energy Projects (OEP) staff will conduct site visits of the proposed Line MB Loop Extension Project. The purpose of the onsite review is to review alternatives to the proposed pipeline route.

All interested parties planning to attend must provide their own transportation. Those attending should meet at the following locations:

- *Wednesday, June 13 at 8:00 a.m. (EST)* meet at the Garrison Forest Plaza Shopping Center Parking Lot, 10335 Reisterstown Road, Owings Mill, Maryland. The site visit will include pipeline route alternatives review in Baltimore County.
- *Thursday, June 14 at 8:00 a.m. (EST)* meet at the Paper Mill Village Shopping Center Parking Lot, 3320–3335 Paper Mill Road, Phoenix, Maryland. The site visit will include pipeline route alternatives review in Harford County.

The FERC offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the

documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm.* Public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information. For additional information contact Office of external affairs at 1–866–208–FERC (3372).

Dated: May 25, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–13280 Filed 5–31–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RC11–6–002]

North American Electric Reliability Corporation; Notice of Filing

Take notice that on May 14, 2012, the North American Electric Reliability Corporation (NERC) submitted a compliance filing in accordance with the Federal Energy Regulatory Commission's Order (FERC or Commission) in *North American Electric Reliability Corporation,* 138 FERC ¶ 61,193 (2012) (March 15 Order).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 15, 2012.

Dated: May 25, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–13274 Filed 5–31–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14110–001]

Black Canyon Hydro, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document (PAD), Commencement of Pre-Filing Process and Scoping; Request for Comments on the PAD and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for an Original License and Commencing Pre-filing Process.

b. *Project No.:* 14110–001.

c. *Date Filed:* March 27, 2012.

d. *Submitted By:* Black Canyon Hydro, LLC (Black Canyon).

e. *Name of Project:* Black Canyon Hydroelectric Project.

f. *Location:* On the North Fork Snoqualmie River, approximately 4 miles northeast of North Bend in King County, Washington. The project would not occupy federal lands.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. Potential *Applicant Contact:* Chris Spens, Licensing Manager, Black Canyon Hydro, LLC, 3633 Alderwood Ave., Bellingham, WA 98225.

i. *FERC Contact:* Brandon Cherry at (202) 502–8328 or email at *brandon.cherry@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o. below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *With this notice, we are initiating informal consultation with:* (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402 and (b) the State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Black Canyon as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act, section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act, and section 106 of the National Historic Preservation Act.

m. Black Canyon filed with the Commission a Pre-Application Document (PAD; including a proposed process plan and schedule), pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission staff's Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission. Documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit

brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

All filings with the Commission must include on the first page, the project name (Black Canyon Hydroelectric Project) and number (P–14110–001), and bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by July 24, 2012.

p. We intend to prepare an environmental assessment (EA) for this project. The scoping meetings identified below satisfy the NEPA scoping requirements.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date: Tuesday, June 19, 2012.

Time: 11:00 a.m.

Location: Cedar River Watershed Education Center Auditorium, 19901 Cedar Falls Road SE., North Bend, WA 98045.

Phone: (206) 733–9421.

Evening Scoping Meeting

Date: Tuesday, June 19, 2012.

Time: 6:00 p.m.

Location: Cedar River Watershed Education Center Auditorium, 19901 Cedar Falls Road SE., North Bend, WA 98045.

Phone: (206) 733–9421.

Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Virtual Site Review

Black Canyon will conduct a virtual site review meeting for the proposed project on Tuesday, June 19, 2012, starting at 2:00 p.m. The virtual site review meeting will provide an overview of the proposed project area, including video, photos, and maps. The meeting will be held at the Cedar River Watershed Education Center Auditorium, 19901 Cedar Falls Road SE., North Bend, WA 98045. Anyone with questions about the virtual site review should contact Mr. Chris Spens (Black Canyon) at (360) 738–9999 or Brandon Cherry (FERC) at (202) 502–8328.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n. of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will be placed in the public records of the project.

Dated: May 25, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–13278 Filed 5–31–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. PR12–26–000; PR12–27–000]

Crosstex LIG, LLC; Notice of Filings

Take notice that on May 24, 2012, Crosstex LIG, LLC filed to clean up its database for administrative reasons.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 5, 2012.

Dated: May 24, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–13265 Filed 5–31–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13333–001]

Public Utility District No. 1 of Klickitat County, Washington; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Competing Applications

On May 1, 2012, the Public Utility District No. 1 of Klickitat County, Washington, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the JD Pool Pumped Storage Hydroelectric Project (project) to be located near Goldendale, Klickitat County, Washington, and Rufus, Sherman County, Oregon. The project would be partially located on land owned and operated by the U.S. Department of the Army Corps of Engineers. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following new facilities: (1) A 270-foot-high, 8,610-foot-long earth embankment dam enclosing an upper reservoir; (2) an upper reservoir, with a surface area of 114 acres and a storage capacity of 14,010 acre-feet at a maximum surface elevation of 2,710 feet above mean sea level (msl); (3) a 295-foot-high, 5,870-foot-long earth embankment dam enclosing a lower reservoir; (4) a lower reservoir, with a surface area of 110 acres and a storage capacity of 21,440 acre-feet at a maximum surface elevation of 705 feet msl; (5) a 24-foot-diameter, 9,188-foot-long steel penstock; (6) an underground powerhouse with five 300-megawatt (MW) turbine units with a total installed capacity of 1,500 MW; (7) 5 miles of 500-kilovolt transmission line connecting to Bonneville Power Administration's existing John Day Substation; and (8) appurtenant facilities. The project would be a closed-loop system and would use water from the Columbia River for initial fill and make-up water. The estimated annual generation of the project would be 4,343 gigawatt-hours.

Applicant Contact: Mr. John Smith, General Manager, Public Utility District No. 1 of Klickitat County, 1313 S. Columbus Avenue, Goldendale, Washington 98620; phone: (509) 773–5891.

FERC Contact: Kelly Wolcott; phone: (202) 502–6480.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13333) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 25, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–13277 Filed 5–31–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR12–13–000]

Lion Oil Trading & Transportation, Inc., Magnolia Pipeline Company, and El Dorado Pipeline Company; Notice for Temporary Waiver of Filing and Reporting Requirements

Take notice that on May 8, 2012, pursuant to Rule 202 of the Commission's Rules of Practice and Procedure, 18 CFR 385.202 (2011), Lion Oil Trading & Transportation, Inc., Magnolia Pipeline Company, and El Dorado Pipeline Company, collectively, Lion Companies, requested that the Commission grant a temporary waiver of the Interstate Commerce Act (ICA) Section 6 and Section 20 tariff filing and reporting requirements applicable to interstate common carrier pipelines. Lion Companies requested review on an expedited basis. Lion Companies state that they have a supply and off-take agreement with J. Aron & Company (J. Aron), which is used as an alternative to conventional financing. Under this agreement J. Aron takes title to crude and refined products on the Lion Companies' system and then resells the crude and refined products to Lion subject to certain conditions at specified price spreads. In support of the request for waiver, Lion Companies assert that the agreement with J. Aron is not a traditional transportation agreement with an unaffiliated shipper, and that even though J. Aron holds title to the throughput, the complex arrangement serves as an alternative to traditional financing, and that it would be difficult for the Lion Companies and J. Aron to revise their arrangement to comply with the statutory provisions and related regulations for which they seek temporary waiver. Lion Companies state that their circumstances fit the criteria the Commission has used in granting such waivers, and that there is no public interest basis to deny the request.

Any person desiring to intervene or to protest in the above proceeding 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. 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 email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 6, 2012.

Dated: May 24, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–13266 Filed 5–31–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9680–3]

Ambient Air Monitoring Reference and Equivalent Methods: Designation of Three New Equivalent Methods

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has designated, in accordance with 40 CFR Part 53, three new equivalent methods: One for measuring concentrations of nitrogen dioxide (NO_2) and two for measuring concentrations of lead (Pb) in the ambient air.

FOR FURTHER INFORMATION CONTACT: Robert Vanderpool, Human Exposure and Atmospheric Sciences Division (MD–D205–03), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. Email: *Vanderpool.Robert@epa.gov*. Phone: 919–541–7877. Written inquiries are strongly preferred.

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR Part 53, the EPA evaluates various methods for monitoring the concentrations of those ambient air pollutants for which EPA has established National Ambient Air Quality Standards (NAAQSs) as set forth in 40 CFR Part 50. Monitoring methods that are determined to meet specific requirements for adequacy are designated by the EPA as either reference methods or equivalent methods (as applicable), thereby permitting their use under 40 CFR Part 58 by States and other agencies for determining compliance with the NAAQSs.

The EPA hereby announces the designation of three new equivalent methods for measuring pollutant concentrations in the ambient air: One for NO_2 and two for Pb. These designations are made under the provisions of 40 CFR Part 53, as amended on August 31, 2011 (76 FR 54326- 54341).

The new equivalent method for NO_2 is an automated method (analyzer) utilizing the measurement principle based on gas phase chemiluminescence reaction of nitric oxide (NO) with ozone, using a photolytic NO_2 to NO converter and the calibration procedure specified in the operation manual.

(Note that this NO_2 equivalent method differs from the automated NO_2 reference method by its use of a photolytic NO_2 to NO converter. This is the first NO_2 equivalent method designated with this type of converter). This newly designated equivalent method is identified as follows:

EQNA–0512–200, ''Teledyne—Advanced Pollution Instrumentation, Inc. Model 200EUP or T200UP Chemiluminescence Nitrogen Oxides Analyzer'', operated on any full scale range between 0–50 ppb and 0–1000 ppb, with any range mode (Single, Independent, or AutoRange), at any ambient temperature in the range of 20 °C to 30 °C, with software Temperature and Pressure compensation ON, in accordance with the associated instrument manual; and with or without any of the following options: Zero/Span Valves, standard serial port (RS232/RS485) or Multi-drop RS–232, Ethernet port, USB COM port, analog inputs, digital status outputs, analog outputs: 100 mV, 1V, 5V, 10V, 4–20 mA current loop outputs.

The application for equivalent method determination for the NO_2 method was received by the Office of Research and Development on October 4, 2011. These analyzer models are commercially available from the applicant, Teledyne-API, 9480 Carroll Park Drive San Diego, CA 92121–5201.

One of the new equivalent methods for Pb is a manual method that uses the sampling procedure specified in the Reference Method for the Determination of Lead in Suspended Particulate Matter Collected From Ambient Air (High-Volume Sampler), 40 CFR Part 50, Appendix G, with a different extraction and analytical procedure. The method is identified as follows:

EQL–0512–201, ''Determination of Lead in TSP by Inductively Coupled Plasma Mass Spectrometry (ICP–MS) With Hot Block Dilute Acid and Hydrogen Peroxide Filter Extraction''

In this method, total suspended particulate matter (TSP) is collected on glass fiber filters according to 40 CFR Appendix G to part 50, *EPA Reference Method for the Determination of Lead in Suspended Particulate Matter Collected From Ambient Air.* The filter samples are extracted in a hot block at 95 °C with a solution of dilute hydrochloric acid and nitric acid and two aliquots of hydrogen peroxide, for a total of two and a half hours extraction time. The samples are brought to a final volume of 50 mL and the lead content of the sample extract is analyzed by Inductively Coupled Plasma-Mass Spectrometry (ICP–MS) based on EPA Compendium Method IO–3.5 and SW–846 Method 6020A.

The other new equivalent method for Pb is a manual method that uses the sampling procedure specified in the Reference Method (FRM) for the Determination of Lead in Particulate Matter as PM_{10} Collected From Ambient Air, 40 CFR Part 50, Appendix Q, with a different extraction and analytical procedure. The method is identified as follows:

EQL–0512–202, ''Determination of Lead in PM_{10} *by Inductively Coupled Plasma Mass Spectrometry (ICP–MS) with Hot Block Dilute Acid and Hydrogen Peroxide Filter Extraction''*

In this method, PM_{10} particulate matter is collected on Teflon® membrane filters according to 40 CFR Appendix Q to part 50, *EPA Reference*

Method for the Determination of Lead in Particulate Matter as PM_{10} Collected From Ambient Air. The filter samples are extracted in a hot block at 95 °C with a solution of hydrochloric acid, nitric acid, and hydrofluoric acid and an aliquot of hydrogen peroxide for a total of two and a half hours extraction time. Samples are brought to a final volume of 50 mL and analyzed by Inductively Coupled Plasma-Mass Spectrometry (ICP–MS) based on EPA Compendium Method IO–3.5 and SW–846 Method 6020A.

The applications for equivalent method determinations for these Pb methods were submitted by Eastern Research Group, Inc., 601 Keystone Park Drive, Suite 700, Morrisville, NC 27560 and were received by the EPA's Office of Research and Development on October 4, 2011. The method descriptions will be available at *http://www.epa.gov/ttnamti1/pb-monitoring.html.*

A representative test analyzer for the NO_2 method and the analytical procedures for the Pb methods have been tested in accordance with the applicable test procedures specified in 40 CFR Part 53, as amended on August 31, 2011. After reviewing the results of those tests and other information submitted in the applications, EPA has determined, in accordance with Part 53, that each of these methods should be designated as an equivalent method. The information in the applications will be kept on file, either at EPA's National Exposure Research Laboratory, Research Triangle Park, North Carolina 27711 or in an approved archive storage facility, and will be available for inspection (with advance notice) to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As designated equivalent methods, these methods are acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR Part 58, Ambient Air Quality Surveillance. For such purposes, the methods must be used in strict accordance with the operation manual (NO_2 method) or the standard operating procedures associated with each of the Pb methods and are subject to any specifications and limitations specified in the applicable designated method description (see the identifications of the methods above).

Use of the methods also should be in general accordance with the guidance and recommendations of applicable sections of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I,'' EPA/600/R–94/038a and ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Quality Monitoring Program'' EPA–454/B–08–003, December, 2008. Provisions concerning modification of such methods by users are specified under Section 2.8 (Modifications of Methods by Users) of Appendix C to 40 CFR Part 58.

Consistent or repeated noncompliance should be reported to: Director, Human Exposure and Atmospheric Sciences Division (MD–E205–01), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of these new equivalent methods is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR Part 58. Questions concerning the commercial availability or technical aspects of the methods should be directed to the applicants.

Dated: May 23, 2012.

Jennifer Orme-Zavaleta,

Director, National Exposure Research Laboratory.

[FR Doc. 2012–13350 Filed 5–31–12; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2012–0412; FRL–9351–6]

Approval of Test Marketing Exemptions for Certain New Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of applications for test marketing exemptions (TMEs) under section 5(h)(1) of the Toxic Substances Control Act (TSCA). EPA has designated these applications as TME–11–01; TME–11–2; TME–11–3; TME–11–5; TME–11–6; TME–11–7; TME–11–9; TME–11–10; TME–11–13; TME–11–14; TME–11–15; TME–11–16; TME–11–17; TME–12–01; TME–12–04; TME–12–5; TME–12–7. The test marketing conditions are described in the TME applications and in this notice.

DATES: Approval of these TMEs is effective May 24, 2012.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Adella Underdown, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9364; fax number: (202) 564–9490; email address: *underdown.adella@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed in particular to the chemical manufacturer and/or importer who submitted the TMEs to EPA. This action may, however, be of interest to the public in general. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket ID number EPA–HQ–OPPT–2012–0412. All documents in the docket are listed in the docket index at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

II. What is the Agency's authority for taking this action?

Section 5(h)(1) of TSCA and 40 CFR 720.38 authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes, if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

III. What action is the agency taking?

EPA approves the TMEs referenced in this notice. EPA has determined that test marketing the new chemical substances, under the conditions set out in the TME applications and in this notice, will not present any unreasonable risk of injury to health or the environment.

IV. What restrictions apply to these TMEs?

The test market time period, production volume, number of customers, and use must not exceed specifications in the applications and this notice. All other conditions and restrictions described in the applications and in this notice must also be met.

TME–11–0001.
Date of Receipt: October 5, 2010.
Notice of Receipt: November 24, 2010 (75 FR 71692) (FRL–8852–1).
Applicant: Cytec Industries, Inc.
Chemical: (G) Alkyl dioic acid, polymer with substituted alkanoate, alkly diisocyanate, alkyldiol, and substituted alkanoic acid.
Use: (G) Coatings resin.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–11–0002.
Date of Receipt: December 13, 2010.
Notice of Receipt: April 15, 2011 (76 FR 21343) (FRL–8869–4).
Applicant: Cytec Industries, Inc.
Chemical: (G) Substituted alkanoic acid, polymer with alkanoic acid alkyl esters, with substituted polyglycol-initiated.
Use: Dispersing additive for organic and inorganic pigments and extenders.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–11–0003.
Date of Receipt: December 13, 2010.
Notice of Receipt: April 15, 2011 (76 FR 21344) (FRL–8869–4).
Applicant: Cytec Industries, Inc.
Chemical: (G) Substituted alkyl homopolymer, substituted alkylacrylate and heteromonocyclic homopolymer monoester with substituted alklyacrylate.
Use: (G) Coatings resin.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–11–0005.
Date of Receipt: December 14, 2010.
Notice of Receipt: April 15, 2011 (76 FR 21344) (FRL–8869–4).
Applicant: Cytec Industries, Inc.
Chemical: (G) Modified epoxy resin.
Use: (G) Binder resin.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–11–0006.
Date of Receipt: January 11, 2011.
Notice of Receipt: April 15, 2011 (76 FR 21344) (FRL–8869–4).
Applicant: CBI.
Chemical: (G) Tertiary ammonium compound.
Use: (G) Inhibitor for oil field applications.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–11–0007.
Date of Receipt: March 24, 2011.
Notice of Receipt: June 21, 2011 (76 FR 36117) (FRL–8876–3).
Applicant: Cytec Industries, Inc.
Chemical: (G) Heteromonocycle, polymer with disubstituted carbomonocycle and alkylene glycol, alkyl acrylate blocked.
Use: (G) Coatings resin.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–11–0009.
Date of Receipt: May 6, 2011.
Notice of Receipt: June 20, 2011 (76 FR 35890) (FRL–8877–3).
Applicant: Cytec Industries, Inc.
Chemical: (G) Fatty acids polymers with alkanoic acid, substituted alkyl diol and substituted carbomonocycle.
Use: Binder for printing inks.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–11–0010.
Date of Receipt: June 6, 2011.
Notice of Receipt: September 16, 2011 (76 FR 57738) (FRL–8888–6).
Applicant: Cytec Industries, Inc.
Chemical: (G) Poly[oxyalkylenediyl],*a*-hydro-*w*-hydroxy-, polymer with disubstituted carbomonocycle, alkyl acrylate blocked.
Use: (G) Coatings resin.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–11–0013.
Date of Receipt: August 1, 2011.
Notice of Receipt: September 21, 2011 (76 FR 58505) (FRL–8889–6).
Applicant: CBI.
Chemical: (G) Polyaminoamide, sulfate salt.
Use: (G) Productivity aid in the paper industry.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–11–0014.
Date of Receipt: August 2, 2011.
Notice of Receipt: September 21, 2011 (76 FR 58505) (FRL–8869–6).
Applicant: CBI.
Chemical: (G) petroleum distillate lights.
Use: (G) Fuel blending component.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–11–0015.
Date of Receipt: September 7, 2011.
Notice of Receipt: October 5, 2011 (76 FR 61694) (FRL–8890–6).
Applicant: Cytec Industries, Inc.
Chemical: (G) Heteromonocycle, homopolymer, disubstituted carbomonocycle, substituted alkyl ester.
Use: (G) Coating resin for increased impact resistance.
Production Volume: CBI.
Number of Customers: CBI.
Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–11–0016.
Date of Receipt: September 22, 2011.
Notice of Receipt: November 9, 2011 (76 FR 69726) (FRL–8891–6).
Applicant: Cytec Industries, Inc.

Chemical: (G) Substituted carbomonocycle, polymer with alkyldiol, bis[substituted carbomonocycle ester].

Use: Binder for printing inks.

Production Volume: CBI.

Number of Customers: CBI.

Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–11–0017.

Date of Receipt: September 22, 2011.

Notice of Receipt: November 9, 2011 (76 FR 69726) (FRL–8891–6).

Applicant: Cytec Industries, Inc.

Chemical: (G) substituted carbomonocycle, polymer with alkyldiols, di[substituted carbomonocycle ester].

Use: (G) Ink binder resin.

Production Volume: CBI.

Number of Customers: CBI.

Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–12–0001.

Date of Receipt: October 19, 2011.

Notice of Receipt: December 9, 2011 (76 FR 76969) (FRL–9328–1).

Applicant: CBI.

Chemical: (G) Petroleum distillate heavies.

Use: Petroleum fuel blend and distillation/fractionation feedstock.

Production Volume: CBI.

Number of Customers: CBI.

Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–12–0004.

Date of Receipt: December 22, 2011.

Notice of Receipt: February 1, 2012 (77 FR 5103) (FRL–9334–6).

Applicant: CBI.

Chemical: (G) Substituted pyridinium salt.

Use: (G) Corrosion inhibitor component.

Production Volume: CBI.

Number of Customers: CBI.

Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–12–0005.

Date of Receipt: December 22, 2011.

Notice of Receipt: February 1, 2012 (77 FR 5103) (FRL–9334–6).

Applicant: CBI.

Chemical: (G) Substituted pyridinium salt.

Use: (G) Corrosion inhibitor component.

Production Volume: CBI.

Number of Customers: CBI.

Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

TME–12–0007.

Date of Receipt: March 22, 2012.

Notice of Receipt: April 17, 2012 (77 FR 22780) (FRL–9345–5).

Applicant: Cytec Industries, Inc.

Chemical: (G) Dialkyldithiophosphate salt.

Use: (G) Mineral processing collector.

Production Volume: CBI.

Number of Customers: CBI.

Test Marketing Period: CBI days, commencing on first day of commercial manufacture.

The following additional restrictions apply to these TMEs. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

V. What was EPA's risk assessment for these TMEs?

EPA identified no significant health or environmental concerns for the test market substances, due to either the low toxicity of each substance or low expected exposure. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment. Many of these TMEs were submitted per the TSCA New Chemicals Sustainable Futures Voluntary Pilot Project which is designed to develop low risk chemicals; see the **Federal Register** of December 11, 2002 (67 FR 76282) (FRL–7198–6).

VI. Can EPA change its decision on these TMEs in the future?

Yes. The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Test marketing exemptions.

Dated: May 24, 2012.

Greg Schweer,

Chief, New Chemicals Notice Management Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 2012–13349 Filed 5–31–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9003–3]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 05/21/2012 Through 05/25/2012 Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

Supplementary Information: EPA is seeking agencies to participate in its e-NEPA electronic EIS submission pilot. Participating agencies can fulfill all requirements for EIS filing, eliminating the need to submit paper copies to EPA Headquarters, by filing documents online and providing feedback on the process. To participate in the pilot, register at: *https://cdx.epa.gov.*

EIS No. 20120165, Draft EIS, USACE, FL, Central Florida Phosphate District, Phosphate Mining, To Expand Existing Mines and Create New Phosphate Mines, Issuance of Permits, USACE Section 404 Permit, Charlotte, DeSoto, Hardee, Lee, Menatee, Polk, and Sarasota Counties, FL, Comment Period Ends: 07/16/2012, Contact: John Fellows 813–769–7067

EIS No. 20120166, Draft EIS, BLM, NV, Hollister Underground Mine Project, Transitioning from Underground Exploration Activities to a Full Scale Producing Underground Gold and Silver Mine, Elko County, NV, Comment Period Ends: 07/16/2012, Contact: Janice Stadelman 775–753–0346

EIS No. 20120167, Draft EIS, USFS, OR, Mt. Bachelor Ski Area Improvements Project, Implementation, Bend-Ft. Rock Ranger District, Deschutes National Forest, Deschutes County, OR, Comment Period Ends: 07/16/2012, Contact: Amy Tinderholt 541–383–4708

EIS No. 20120168, Revised Draft EIS, USFS, 00, Lake Tahoe Basin Management Unit, Land and Resource Managment Plan, Updated Forest Plan, Implementation, Alpine, El Dorado, Placer *Counties, CA and Douglas and Washoe Counties, AZ,* Comment Period Ends: 08/29/2012, Contact: Randy Moore 707–562–900

EIS No. 20120169, Final Supplement, USFS, OR, Invasive Plant Treatments within the Deschutes and Ochoco National Forests and the Crooked River National Grassland, Updated Information on Three New Alternatives, Proposal for Treatment of Invasive Plant Infestation and Protection of Uninfested Areas, Implementation, Several Cos. OR, Review Period Ends: 07/02/2012, Contact: Debra Mafera 541–416–6588

EIS No. 20120170, Final EIS, USFS, MN, Federal Hardrock Mineral Prospecting Permits Project, To Conduct Mineral Exploration Drilling and Geophysical Activities on the Superior National Forest, Issuance of Special Use Permit, Cook, Lake, St. Louis and Koochiching Counties, MIN, Review Period Ends: 07/23/2012, Contact: Peter Taylor 218–626–4368.

EIS No. 20120171, Final EIS, BLM, MN, Adoption—Federal Hardrock Mineral Prospecting Permits Project, To Conduct Mineral Exploration Drilling and Geophysical Activities on the Superior National Forest, Issuance of Prospecting Permits, Cook, Lake, St. Louis and Koochiching Counties, MN, Review Period Ends: 07/23/2012, Contact: Kurt Wadzinski 414–297–4408.

U.S. Department of the Interior's Bureau of Land Management (BLM) has adopted the U.S. Department of Agriculture's Forest Service Final EIS. BLM was a cooperating agency for the above project, recirculation of the FEIS is not necessary under Section 1506.3(3) of the CEQ Regulations.

As a cooperating agency, the Bureau of Land Management will issue a Record of Decision (ROD) that will be available at the conclusion of the FEIS review period but no sooner than 50 days from the beginning of the Forest Service appeal period.

Dated: May 29, 2012.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2012–13356 Filed 5–31–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9680–5]

Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of a meeting of the Good Neighbor Environmental Board (Board). The Board usually meets three times each calendar year, twice at different locations along the U.S. border with Mexico, and once in Washington, DC. It was created in 1992 by the Enterprise for the Americas Initiative Act, Public Law 102–532, 7 U.S.C. Section 5404. Implementing authority was delegated to the Administrator of EPA under Executive Order 12916. The Board is responsible for providing advice to the President and the Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border. The statute calls for the Board to have representatives from U.S. Government agencies; the states of Arizona, California, New Mexico and Texas; and tribal and private organizations with experience in environmental and infrastructure issues along the US–Mexico border.

The purpose of the meeting is to continue discussion on the Board's 15th report, which is focusing on water issues in the border region. A copy of the meeting agenda will be posted at *http://www.epa.gov/ocem/gneb.*

DATES: The Good Neighbor Environmental Board will hold an open meeting on Thursday, June 28, 2012, from 8:30 a.m. (registration at 8 a.m.) to 6 p.m. The following day, Friday, June 29, 2012, the Board will meet from 8 a.m. until 2 p.m.

ADDRESSES: The meeting will be held at the DoubleTree by Hilton Hotel El Paso Downtown, 600 North El Paso Street, El Paso, Texas 79901, and phone number: 915–532–8733. The meeting is open to the public, with limited seating on a first-come, first-serve basis.

FOR FURTHER INFORMATION CONTACT: Mark Joyce, Acting Designated Federal Officer, *joyce.mark@epa.gov,* 202–564–2130, U.S. EPA, Office of Federal Advisory Committee Management and Outreach (1601M), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: If you wish to make oral comments or submit written comments to the Board, please contact Mark Joyce at least five days prior to the meeting.

General Information: Additional information concerning the GNEB can be found on its Web site at *www.epa.gov/ocem/gneb.*

Meeting Access: For information on access or services for individuals with disabilities, please contact Mark Joyce at 202–564–2130 or by email at *joyce.mark@epa.gov.* To request accommodation of a disability, please contact Mark Joyce at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: May 22, 2012.

Mark Joyce,

Acting Designated Federal Officer.

[FR Doc. 2012–13347 Filed 5–31–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[9680–4]

Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for nominations to the Good Neighbor Environmental Board.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations from a diverse range of qualified candidates to be considered for appointment to its Good Neighbor Environmental Board. Sources in addition to this **Federal Register** Notice may also be utilized in the solicitation of nominees.

Background: GNEB is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92–463. GNEB was created in 1992 by the Enterprise for the Americas Initiative Act, Public Law 102–532, 7 U.S.C. Section 5404. Implementing authority was delegated to the Administrator of EPA under Executive Order 12916. The GNEB is responsible for providing advice to the President on environmental and infrastructure issues and needs within the States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border. The statute calls for the GNEB to have representatives from U.S. Government agencies; the states of Arizona, California, New Mexico and Texas; and tribal and private organizations with experience in environmental and infrastructure issues along the U.S./Mexico Border. Members are appointed by the EPA Administrator

for two year terms with the possibility of reappointment to a second term. The GNEB meets approximately three times annually.

The GNEB provides guidance to the President on environmental and infrastructure issues along the U.S.-Mexico border in the form of an annual report and through advice letters. Although we are unable to offer compensation or an honorarium for your services, you may receive travel and per diem allowances, according to applicable federal travel regulations. The GNEB is seeking nominations from a variety of nongovernmental interests along the U.S.-Mexico border from the private sector, academia, environmental groups, health groups, ranching and grazing, energy, and other relevant sectors. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

The following criteria will be used to evaluate nominees:

- The background and experiences that would help members contribute to the diversity of perspectives on the committee (e.g., geographic, economic, social, cultural, educational, and other considerations).
- Representative of a sector or group that helps to shape border-region environmental policy or representatives of a group that is affected by border region environmental policy.
- Has extensive professional knowledge and experience with the particular issues that the GNEB examines (i.e., environmental and infrastructure issues along the U.S.-Mexico border), including the bi-national dimension of these issues.
- Bring senior level experience that will fill a need of the GNEB in bringing a new and relevant dimension to its deliberations.
- Possesses a demonstrated ability to work in a consensus building process with a wide range of representatives from diverse constituencies.
- Ability to contribute approximately 10 to 15 hours per month to the GNEB's activities, including face-to-face meetings, conference calls, and participation in the development of the GNEB's annual report to the President and comment letters.
- Nominees may self nominate by submitting a resume describing their professional and educational qualifications, including current business address, email, and daytime telephone number.
- All nominees must demonstrate the potential for active and constructive involvement in the GNEB's work.

To help the Agency in evaluating the effectiveness of its outreach efforts, please tell us how you learned of this opportunity.

Please be aware that EPA's policy is that, unless otherwise prescribed by statute, members generally are appointed to two- or three-year terms.

ADDRESSES: Submit nominations to Mark Joyce, Acting Designated Federal Officer, Office of Federal Advisory Committee Management and Outreach (1601M), 1200 Pennsylvania Avenue NW., Washington, DC 20460. You may also email nominations with the subject line COMMITTEE RESUME 2012 to *joyce.mark@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Mark Joyce, Acting Designated Federal Officer, U.S. EPA, telephone 202–564–2130, fax: 202–564–8129.

Dated: May 22, 2012.

Mark Joyce,

Acting Designated Federal Officer.

[FR Doc. 2012–13345 Filed 5–31–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

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 shares of 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 offices 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 June 18, 2012.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *William V. Eckles Bank Trust, William V. Eckles as Trustee,* Blue Earth, Minnesota; to retain control of FNB Bancshares, Inc., and thereby indirectly retain control of First Bank Blue Earth, both in Blue Earth, Minnesota.

Board of Governors of the Federal Reserve System, May 29, 2012.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. 2012–13288 Filed 5–31–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting Notice

AGENCY: Board of Governors of the Federal Reserve System.

TIME AND DATE: 3:30 p.m., Thursday, June 7, 2012.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th Street entrance between Constitution Avenue and C Streets NW., Washington, DC 20551.

STATUS: Open. On the day of the meeting, you will be able to view the meeting via Web cast from a link available on the Board's public Web site. You do not need to register to view the Web cast of the meeting. A link to the meeting documentation will also be available approximately 20 minutes before the start of the meeting. Both links may be accessed from the Board's public Web site at *www.federalreserve.gov.*

If you plan to attend the open meeting in person, we ask that you notify us in advance and provide your name, date of birth, and social security number (SSN) or passport number. You may provide this information by calling 202–452–2474 or you may *register online.* You may pre-register until close of business on June 6, 2012. You also will be asked to provide identifying information, including a photo ID, before being admitted to the Board meeting. The Public Affairs Office must approve the use of cameras; please call 202–452–2955 for further information.

If you need an accommodation for a disability, please contact Penelope Beattie on 202–452–3982. For the hearing impaired only, please use the Telecommunication Device for the Deaf (TDD) on 202–263–4869.

Privacy Act Notice: The information you provide will be used to assist us in prescreening you to ensure the security of the Board's premises and personnel. In order to do this, we may disclose your information consistent with the routine uses listed in the Privacy Act Notice for BGFRS–32, including to appropriate federal, state, local, or foreign agencies where disclosure is reasonably necessary to determine whether you pose a security risk or where the security or confidentiality of your information has been

compromised. We are authorized to collect your information by 12 U.S.C 243 and 248, and Executive Order 9397. In accordance with Executive Order 9397, we collect your SSN so that we can keep accurate records, because other people may have the same name and birth date. In addition, we use your SSN when we make requests for information about you from law enforcement and other regulatory agency databases. Furnishing the information requested is voluntary; however, your failure to provide any of the information requested may result in disapproval of your request for access to the Board's premises. You may be subject to a fine or imprisonment under 18 U.S.C 1001 for any false statements you make in your request to enter the Board's premises.

Matters To Be Considered

Discussion Agenda:

1. Proposed interagency rulemakings: strengthening and harmonizing the regulatory capital framework for banking organizations, including proposed rules for implementing Basel III for banking organizations and proposed consolidated capital requirements for savings and loan holding companies.

2. Final interagency rulemaking: Market risk capital rule.

Notes: 1. The staff memo to the Board will be made available to the public on the day of the meeting in paper and the background material will be made available on a compact disc (CD). If you require a paper copy of the entire document, please call Penelope Beattie on 202–452–3982. The documentation will not be available until about 20 minutes before the start of the meeting.

2. This meeting will be recorded for the benefit of those unable to attend. CDs will then be available for listening in the Board's Freedom of Information Office, and copies can be ordered for $4 per disc by calling 202–452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

For more information please contact: Michelle Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members at 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 for a recorded announcement of this meeting; or you may access the Board's public Web site at *www.federalreserve.gov* for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: May 30, 2012.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2012–13413 Filed 5–30–12; 4:15 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0990–0388]

Agency Information Collection Request. 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–5683. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the OS OMB Desk Officer; faxed to OMB at 202–395–5806.

Proposed Project: Let's Move! Cities, Towns, and Counties—OMB No. 0990–0388—Extension—Office of the Assistant Secretary for Planning and Evaluation (ASPE).

Abstract: The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is requesting an extension from the Office of Management and Budget (OMB) to conduct a survey of public sector organizations for the *Let's Move!* Cities, Towns and Counties Initiative. *Let's Move!* is a comprehensive initiative, launched by the First Lady, dedicated to solving the challenge of childhood obesity within a generation. Combining comprehensive strategies with common sense, *Let's Move!* is about:

- Putting children on the path to a healthy future during their earliest months and years;
- Giving parents helpful information and fostering environments that support healthy choices;
- Providing healthier foods in our schools;
- Ensuring that every family has access to healthy, affordable food; and
- Helping kids become more physically active.

Let's Move! Cities, Towns, and Counties emphasizes the unique ability of communities to solve the challenge locally, and the critical leadership mayors and elected officials can provide to bring communities together and spur action. The initiative is designed to encourage mayors and elected officials to adopt a long-term, sustainable and holistic approach to fighting childhood obesity.

This activity is requesting comment on the burden for a baseline survey for local or county officials who have chosen to participate in *Let's Move!* Cities, Towns, and Counties. The survey requests information about the activities the locality is choosing to undertake. The responses to these questions will be used to show progress and successes over time for localities participating in *Let's Move!* Cities, Towns, and Counties. Separate notices will be published for subsequent surveys.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Form	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Government Official (city, town, county)	Baseline Survey	1,000	1	15/60	250

Keith A. Tucker,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2012–13331 Filed 5–31–12; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier 0990–New]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–5683. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the OS OMB Desk Officer; faxed to OMB at 202–395–5806.

Proposed Project: Ryan White HIV/AIDS Program Modeling Project—OMB No. 0990–New—Office of the Assistant Secretary for Planning and Evaluation.

Abstract: The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is requesting the Office of Management and Budget (OMB) approval of a new collection that will examine the service needs under the Ryan White HIV/AIDS Program as the provisions of the Affordable Care Act are implemented, and identify strategies for ensuring that available federal resources are directed to areas of greatest need. To supplement the analysis of existing quantitative data sources, including Ryan White HIV/AIDS Program data, Medicaid enrollment and claims data, and HIV surveillance data, this two-year information collection request is for primary data collection in the form of telephone interviews with administrators of Ryan White grants and providers of HIV care services. In light of Congressional interest expressed in Senate Report 111–243 concerning how the Ryan White Program will transition into a larger system of care with the implementation of the Affordable Care Act, these interviews will help ASPE to understand the potential impact of the Affordable Care Act from the perspectives of Ryan White grantees and service providers. The interview protocols will cover topics including HIV service needs and use; coordination of client insurance enrollment, benefits, and services; factors that influence variation in HIV care costs and selection of AIDS Drug Assistance Program cost containment procedures; and methods of ensuring quality care.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Ryan White Part A Grantees (metropolitan area officials)	26	1	1.08	28
Ryan White Part B Grantees (state officials)	51	1	1.08	55
Ryan White Part A, B, C, D, or Minority AIDS Initiative Providers (service providers)	133	1	55/60	122
Total				205

Keith A. Tucker,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2012–13333 Filed 5–31–12; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HIT Standards Committee and HIT Policy Committee; Call for Nominations

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Call for nominations.

SUMMARY: The Office of the National Coordinator for Health Information Technology (ONC) is seeking nominations to the Health Information Technology Standards Committee (HITSC) and Health Information Technology Policy Committee (HITPC).

Name of Committees: HIT Standards Committee and HIT Policy Committee.

General Function of the Committees: The HITSC is charged to provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

The HITPC is charged to provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

DATES: *Date and Time:* Nominations must be received by Monday, June 11, 2012.

Contact Person: MacKenzie Robertson, Office of the National Coordinator, HHS, 355 E Street SW., Washington, DC 20024, phone: 202–205–8089, email: *mackenzie.robertson@hhs.gov.*

Background: The HIT Standards Committee was established under the American Recovery and Reinvestment

Act 2009 (ARRA)(Pub. L. 111–5), section 13101, new Section 3003. Members of the HIT Standards Committee are appointed by the Secretary, HHS and shall at least reflect providers, ancillary healthcare workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information. Nominees of the HITSC should have experience promoting the meaningful use of health information technology and be knowledgeable in areas such as: small innovative health care providers, providers participating in payment reform initiatives, accountable care organizations, pharmacists, behavioral health professionals, home health care, purchaser or employer representatives, patient safety, health information technology security, big data, consumer e-health, personal health records, and mobile health applications.

The HIT Policy Committee was established under the American Recovery and Reinvestment Act 2009 (ARRA) (Pub. L. 111–5), section 13101, new Section 3002. Members of the HIT Policy Committee are appointed in the following manner: 3 members appointed by the Secretary, HHS; 4 members appointed by Congress; 13 members appointed by the Comptroller General of the United States; and other federal members appointed by the President. Nominations are being accepted for one of the three members appointed by the Secretary of HHS. Nominees of the HITPC should have experience promoting the meaningful use of health information technology and be knowledgeable in privacy and security issues related to health information.

Members will be selected in order to achieve a balanced representation of viewpoints, areas of experience, subject matter expertise, and representation of the health care system. Terms will be three (3) years from the appointment date to either the HITSC or HITPC. Members on both Committees serve without pay. However, members will be provided per diem and travel costs for performance of Committee services.

Current HITSC and HITPC members whose terms are expiring are allowed to reapply for a second consecutive term.

For more information on the HIT Policy and Standards Committees please visit the Web site, *http://healthit.hhs.gov/FACA.*

Submitting Nominations: Nominations should be typed and all required documents must be compiled and submitted in one complete nomination package. A nomination package must include: a letter clearly stating which committee the nominee is applying to and the nominee's area of expertise, a short bio, a current CV including contact information and memberships with professional organizations/advisory committees, and relevant letters of support.

Nominations should be emailed to *ONC_HITCommittees@hhs.gov*. Paper nomination packages must be postmarked no later than June 11, 2012 and addressed to MacKenzie Robertson, FACA Program Lead, Office of the National Coordinator, 335 E Street SW., Suite 310, Washington, DC 20024.

Dated: May 24, 2012.

MacKenzie Robertson,

FACA Program Lead, Office of Policy and Planning, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2012–13366 Filed 5–31–12; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice of a decision to designate a class of employees from Sandia National Laboratories in Albuquerque, New Mexico, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On May 11, 2012, the Secretary of HHS designated the following class of employees as an addition to the SEC:

All employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors who worked in any area at Sandia National Laboratories in Albuquerque, New Mexico, from January 1, 1963 through December 31, 1994, for a number of work days aggregating at least 250 work days, occurring either solely under this employment, or in combination with work days within the parameters established for one or more other classes of employees included in the Special Exposure Cohort.

This designation will become effective on June 10, 2012, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, NIOSH, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 1–877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2012–13375 Filed 5–31–12; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice of a decision to designate a class of employees from the Clinton Engineer Works in Oak Ridge, Tennessee, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On May 11, 2012, the Secretary of HHS designated the following class of employees as an addition to the SEC:

All employees of the Tennessee Eastman Corporation (1943–1947) and the Carbide and Carbon Chemicals Corporation (1947–1949) who were employed at the Clinton Engineer Works in Oak Ridge, Tennessee, from January 1, 1943 through December 31, 1949 for a number of work days aggregating at least 250 work days, occurring either solely under this employment or in combination with work days within the parameters established for one or more classes of employees included in the Special Exposure Cohort.

This designation will become effective on June 10, 2012, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support,

NIOSH, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 1–877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2012–13381 Filed 5–31–12; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice of a decision to designate a class of employees from the Electro Metallurgical site in Niagara Falls, New York, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On May 11, 2012, the Secretary of HHS designated the following class of employees as an addition to the SEC:

All employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors who worked at the Electro Metallurgical site in Niagara Falls, New York, from August 13, 1942 through December 31, 1947, for a number of work days aggregating at least 250 work days, occurring either solely under this employment, or in combination with work days within the parameters established for one or more other classes of employees included in the Special Exposure Cohort.

This designation will become effective on June 10, 2012, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, NIOSH, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 1–877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2012–13374 Filed 5–31–12; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice of a decision to designate a class of employees from the Brookhaven National Laboratory in Upton, New York, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On May 11, 2012, the Secretary of HHS designated the following class of employees as an addition to the SEC:

All employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors who worked at the Brookhaven National Laboratory in Upton, New York, from January 1, 1980 through December 31, 1993, for a number of work days aggregating at least 250 work days, occurring either solely under this employment, or in combination with work days within the parameters established for one or more other classes of employees included in the Special Exposure Cohort.

This designation will become effective on June 10, 2012, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, NIOSH, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 1–877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2012–13371 Filed 5–31–12; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meetings of the National Biodefense Science Board

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the National Biodefense Science Board (NBSB) will be holding a closed session under exemption 9(B) of the Government in Sunshine Act, 5 U.S.C. 552b(c), in addition to a public meeting the following day.

DATES: The June 26, 2012, NBSB public meeting is tentatively scheduled from 9:00 a.m. to 5 p.m. The closed session of the NBSB will take place on June 25, 2012, and is tentatively scheduled from 10:00 a.m. to 1:00 p.m. The agendas for both days are subject to change as priorities dictate. Please check the NBSB Web site for the most up-to-date information on these meetings.

ADDRESSES: The June 26, 2012, public meeting will be held at the Washington Plaza Hotel, 10 Thomas Circle Northwest, Washington, DC 20005. To attend by teleconference and/or Web cast, please refer to the NBSB Web site for further instructions at *WWW.PHE.GOV/NBSB.* Please log-in/call 15 minutes prior to the beginning of the meeting to facilitate attendance. Pre-registration is optional for in-person attendance, however online access to the Web cast is required by June 21, 2012. Individuals who wish to attend the meeting in-person should send an email to *NBSB@HHS.GOV* with ''NBSB Registration'' in the subject line by June 21, 2012. The closed session will not be open to the public as stipulated under exemption 9(B) of the Government in Sunshine Act, 5 U.S.C. section 552b(c).

FOR FURTHER INFORMATION CONTACT: The National Biodefense Science Board mailbox: *NBSB@HHS.GOV.*

SUPPLEMENTARY INFORMATION: Pursuant to section 319M of the Public Health Service Act (42 U.S.C. 247d–7f) and section 222 of the Public Health Service Act (42 U.S.C. 217a), the Department of Health and Human Services established the National Biodefense Science Board. The Board shall provide expert advice and guidance to the Secretary on scientific, technical, and other matters of special interest to the Department of Health and Human Services (HHS) regarding current and future chemical, biological, nuclear, and radiological

agents, whether naturally occurring, accidental, or deliberate. The Board may also provide advice and guidance to the Secretary and/or the Assistant Secretary for Preparedness and Response (ASPR) on other matters related to public health emergency preparedness and response.

Background: The June 26, 2012, public meeting will be dedicated to the introduction of two new tasks to the NBSB. The NBSB is being tasked to advise the HHS Secretary on the development of a national public health and healthcare situational awareness strategy and implementation plan. In addition, the NBSB, in collaboration with the Public Health Preparedness and Response—Board of Scientific Counselors, a Centers for Disease Control and Prevention Federal Advisory Committee, is being tasked with identification and evaluation of the anticipated responsibilities of the Strategic National Stockpile for the year 2020. The NBSB continues to review and evaluate the 2012 Public Health Emergency Medical Countermeasures Enterprise (PHEMCE) Strategy and Implementation Plan (SIP). Therefore, the Board's deliberations on the PHEMCE SIP task are being conducted in closed sessions in accordance with provisions set forth under exemption 9(B) of the Government in Sunshine Act, 5 U.S.C. 552b(c), and with approval by the ASPR. For a full description for the basis for closing the meeting on June 25, 2012, please see the previous meeting notice published at 77 FR 13129 (2012).

Availability of Materials: The meeting agenda and materials will be posted on the NBSB Web site at *www.PHE.GOV/NBSB* prior to the meeting.

Procedures for Providing Public Input: Any member of the public providing oral comments at the meeting must sign-in at the registration desk and provide his/her name, address, and affiliation. All written comments must be received prior to June 21, 2012, and should be sent by email to *NBSB@HHS.GOV* with ''NBSB Public Comment'' as the subject line. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should email *NBSB@HHS.GOV.*

Dated: May 25, 2012.

Nicole Lurie,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2012–13387 Filed 5–31–12; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Determination Concerning a Petition To Add a Class of Employees to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice of a determination concerning a petition to add a class of employees from Hangar 481 at Kirtland Air Force Base to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384q. On May 11, 2012, the Secretary of HHS determined that the following class of employees does not meet the statutory criteria for addition to the SEC as authorized under EEOICPA:

All employees who worked at Hangar 481, Kirtland Air Force Base, from March 1, 1989 through February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 1–877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2012–13378 Filed 5–31–12; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Patents and Inventions; Delegation of Authority

Notice is hereby given that I have delegated to the Director, Division of Laboratory Policy and Practice (DLPP), Laboratory Science Policy and Practice Program Office (LSPPPO), Office of Surveillance, Epidemiology and Laboratory Services (OSELS), Centers for Disease Control and Prevention (CDC), the Deputy Director, DLPP, LSPPPO, OSELS, CDC, and the Chief, Technology Management Branch, DLPP, LSPPPO, OSELS, without authority to redelegate, all authorities to administer and make decisions regarding the invention and patent program of CDC and the authority to make determinations of rights in inventions and patents in which CDC and the Department have an interest.

This delegation excludes the authority under 35 U.S.C. 203 (March-in Rights) and the authority to submit reports to Congress.

In addition, this delegation excludes those authorities under the Stevenson-Wydler Technology Act of 1980, as amended by the Federal Technology Transfer Act of 1986 and the National Technology Transfer and Advancement Act of 1995, which are governed by a separate delegation.

The exercise of this authority must be in accordance with applicable laws, regulations, and Office of Government Ethics, U.S. Office of Personnel Management, and DHHS policies and instructions.

This delegation became effective upon date of signature. I hereby affirm and ratify any actions taken that involve the exercise of the authorities delegated herein prior to the effective date of this delegation.

Dated: May 14, 2012.

Thomas R. Frieden,

Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–13238 Filed 5–31–12; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–P–0804]

Medical Devices; Exemption From Premarket Notification: Powered Patient Transport

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has received a petition requesting exemption from the premarket notification requirements for powered patient transport devices commonly known as stairlifts. These devices are used to assist transfers of a mobility impaired person up and down flights of stairs. FDA is publishing this notice to obtain comments in accordance with procedures established by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Submit either electronic or written comments by July 2, 2012.

ADDRESSES: You may submit comments, identified with the FDA docket number found in brackets in the heading of this document, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- *FAX:* 301–827–6870.
- *Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and docket number for this notice. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Rebecca Nipper, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1540, Silver Spring, MD 20993–0002, 301–796–6527, FAX: 301–847–8122.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Under section 513 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360c), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA classification of a device is determined by the amount of regulation necessary to provide a reasonable assurance of safety and effectiveness. Under the Medical Device Amendments of 1976 (1976 amendments) (Pub. L. 94–295)), as amended by the Safe Medical Devices Act of 1990 (SMDA) (Pub. L. 101–629)), devices are to be classified into class I (general controls) if there is information showing that the general controls of the FD&C Act are sufficient to assure safety and effectiveness; into class II (special controls), if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance; and into class III (premarket approval), if there is insufficient information to support classifying a device into class I or class II and the device is a life sustaining or life supporting device or is for a use which is of substantial importance in preventing impairment of human health or presents a potential unreasonable risk of illness or injury.

Most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) (generally referred to as preamendments devices) have been classified by FDA under the procedures set forth in section 513(c) and (d) of the FD&C Act through the issuance of classification regulations into one of these three regulatory classes. Devices introduced into interstate commerce for the first time on or after May 28, 1976 (generally referred to as postamendments devices), are classified through the premarket notification process under section 510(k) of the FD&C Act (21 U.S.C. 360(k)). Section 510(k) of the FD&C Act and the implementing regulations, 21 CFR part 807, require persons who intend to market a new device to submit a premarket notification (510(k)) containing information that allows FDA to determine whether the new device is ''substantially equivalent'' within the meaning of section 513(i) of the FD&C Act to a legally marketed device that does not require premarket approval.

On November 21, 1997, the President signed into law FDAMA (Public Law 105–115). Section 206 of FDAMA, in part, added a new section 510(m) to the FD&C Act. Section 510(m)(1) of the FD&C Act requires FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the FD&C Act to provide reasonable assurance of safety and effectiveness. Section 510(m) of the FD&C Act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the **Federal Register** of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the FD&C Act provides that, 1 day after date of publication of the list under section 510(m)(1), FDA may exempt a device on its own initiative or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and to provide a 30-day comment period. Within 120 days of publication of this document, FDA must publish in the **Federal Register** its final determination regarding the exemption of the device that was the subject of the notice. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance the Agency issued on February 19, 1998, entitled ''Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff.'' That guidance is available through the Internet at *http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM080199.pdf* or by sending an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 159 to identify the guidance you are requesting.

III. Proposed Class II Device Exemptions

FDA has received the following petition requesting an exemption from premarket notification for a class II device: Richard Keller, on behalf of Bruno Independent Living Aids, Inc., for powered patient transport devices (commonly known as stairlifts), classified under 21 CFR 890.5150.

IV. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), either electronic or written comments regarding this document. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 25, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–13225 Filed 5–31–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–P–0882]

Medical Devices; Exemption From Premarket Notification: Wheelchair Elevator

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has received a petition requesting exemption from the premarket notification requirements for wheelchair elevator devices commonly known as inclined platform lifts and vertical platform lifts. These devices are used to provide a means for a disabled person to move a wheelchair from one level to another. FDA is publishing this notice to obtain comments in accordance with procedures established by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Submit either electronic or written comments by July 2, 2012.

ADDRESSES: You may submit comments, identified with the FDA docket number found in brackets in the heading of this document, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- *FAX:* 301–827–6870.
- *Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and docket number for this notice. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Rebecca Nipper, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1540, Silver Spring, MD 20993–0002, 301–796–6527, FAX: 301–847–8122.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Under section 513 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360c), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA classification of a device is determined by the amount of regulation necessary to provide a reasonable assurance of safety and effectiveness. Under the Medical Device Amendments of 1976 (1976 amendments) (Pub. L. 94–295)), as amended by the Safe Medical Devices Act of 1990 (SMDA) (Pub. L. 101–629)), devices are to be classified into class I (general controls) if there is information showing that the general controls of the FD&C Act are sufficient to assure safety and effectiveness; into class II (special controls), if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance; and into class III (premarket approval), if there is insufficient information to support classifying a device into class I or class II and the device is a life sustaining or life supporting device or is for a use which is of substantial importance in preventing impairment of human health or presents a potential unreasonable risk of illness or injury.

Most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) (generally referred to as preamendments devices) have been classified by FDA under the procedures set forth in section 513(c) and (d) of the FD&C Act through the issuance of classification regulations into one of these three regulatory classes. Devices introduced into interstate commerce for the first time on or after May 28, 1976 (generally referred to as postamendments devices), are classified through the premarket notification process under section 510(k) of the FD&C Act (21 U.S.C. 360(k)). Section 510(k) of the FD&C Act and the implementing regulations, 21 CFR part 807, require persons who intend to market a new device to submit a premarket notification (510(k)) containing information that allows FDA to determine whether the new device is ''substantially equivalent'' within the meaning of section 513(i) of the FD&C Act to a legally marketed device that does not require premarket approval.

On November 21, 1997, the President signed into law FDAMA (Pub. L. 105–115). Section 206 of FDAMA, in part, added a new section 510(m) to the FD&C Act. Section 510(m)(1) of the FD&C Act requires FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the FD&C Act to provide reasonable assurance of safety and effectiveness. Section 510(m) of the FD&C Act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the **Federal Register** of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the FD&C Act provides that, 1 day after date of publication of the list under section 510(m)(1), FDA may exempt a device on its own initiative or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and to provide a 30-day comment period. Within 120 days of publication of this document, FDA must publish in the **Federal Register** its final determination regarding the exemption of the device that was the subject of the notice. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance the agency issued on February 19, 1998, entitled ''Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff.'' That guidance is available through the Internet at *http://www.fda.*

gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM080199.pdf or by sending an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 159 to identify the guidance you are requesting.

III. Proposed Class II Device Exemptions

FDA has received the following petition requesting an exemption from premarket notification for a class II device: Richard Keller, on behalf of Bruno Independent Living Aids, Inc., for wheelchair elevator devices (commonly known as inclined platform lifts and vertical platform lifts), classified under 21 CFR 890.3930.

IV. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), either electronic or written comments regarding this document. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 25, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–13224 Filed 5–31–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

[Docket Number OIG–1204–N2]

Revision of Performance Standards for State Medicaid Fraud Control Units

AGENCY: Office of Inspector General (OIG), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice sets forth OIG guidance regarding standards OIG will apply in assessing the performance of State Medicaid Fraud Control Units (MFCU or Unit). These standards replace and supersede standards published on September 26, 1994 (59 FR 49080). OIG will apply these standards in certifying and recertifying each Unit and to determine if a Unit is effectively and efficiently carrying out its duties and responsibilities.

DATES: *Effective Date:* These standards are effective on June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Richard B. Stern, OIG Office of Evaluation and Inspections, (202) 619–0480. Patrice S. Drew, Office of External Affairs, (202) 619–1368.

I. Background

The mission of the MFCUs, as established in Federal statute, is to investigate and prosecute Medicaid provider fraud and patient abuse and neglect. The States are responsible for operation of the MFCUs and receive reimbursement for a percentage of their costs from the Federal Government. Under section 1903(a)(6) of the Social Security Act (Act), States are reimbursed for 90 percent of their costs for the first 3 years of a MFCU's operation and 75 percent for subsequent years. All MFCUs are currently reimbursed at 75 percent of the costs of operating a certified MFCU.

OIG is delegated authority under 1903(q) and 1903(a)(6) of the Act to certify and annually recertify Units as eligible for Federal Financial Participation (FFP), and to reimburse States for costs incurred in operating a MFCU. Through the certification and recertification process, OIG ensures that the Units meet the requirements for FFP set forth in section 1903(q) of the Act and in Federal regulations found at 42 CFR part 1007. The performance standards set forth in this guidance document constitute the standards that OIG applies in determining the effectiveness of State Units in carrying out MFCU required functions. As part of the recertification process, OIG reviews reports from the Units, obtains information from other Federal and State agencies, and conducts periodic onsite reviews.

Under 1903(q), a MFCU must be a ''single, identifiable entity of the State government'' and be ''separate and distinct'' from the State Medicaid agency. The Unit must be an office of the State Attorney General's office or another State government office with statewide prosecutorial authority or operate under a formal arrangement with the State Attorney General's office. The MFCU must investigate and prosecute Medicaid fraud cases, according to the laws of the State in which with MFCU operates. Federal regulations also require MFCUs to enter into agreements with the State Medicaid agency to ensure the referral of suspected provider fraud cases.

Under 1903(q), a MFCU must also have procedures for investigating and prosecuting (or referring for prosecution) allegations of patient abuse and neglect in Medicaid-funded facilities. A MFCU may also investigate and prosecute abuse and neglect in ''board and care'' facilities, such as assisted living facilities, even if such facilities do not receive Medicaid payments. Finally, 1903(q) and regulations require that MFCUs be composed of a team of attorneys, auditors, and investigators.

Under section 1902(a)(61) of the Act, as added by Public Law 103–66 § 13625 (1994), all States must operate MFCUs unless they demonstrate to the Secretary of HHS that they can operate without a Unit. Currently, 49 States and the District of Columbia have established MFCUs and 1 State, North Dakota, operates without a MFCU after receiving permission from HHS in 1994. Under section 1902(a)(61), States must operate a MFCU that effectively carries out the functions and requirements described in 1903(q), as determined in accordance with standards established by the Secretary of HHS. Consistent with this section, this notice establishes the performance standards OIG will consider in determining whether State MFCUs are effectively carrying out their statutory functions under 1903(q).

II. OIG Development and Use of These Standards

These standards amend and update performance standards that were initially published in 1994 (59 FR 49080). The standards provide guidance to MFCUs regarding how OIG will exercise its discretion in assessing a Unit's performance and, as such, do not require OIG to use formal notice-and-comment procedures. Nevertheless, on October 6, 2011, we published proposed revisions to the 1994 performance standards (76 FR 62074) to invite MFCUs and other interested parties to review and comment on our approach. We received seven sets of comments, all of which we have carefully considered. In addition, we met with one commenter, the National Association of Medicaid Fraud Control Units (the Association), which submitted extensive comments on each of the standards. We accepted many of the commenters' suggestions and recommendations and revised the standards accordingly.

One topic raised in comments by the Association was the use of statistics in assessing MFCU performance. Under the 1994 standards, Standard 7 stated that ''[a] Unit should have a process for monitoring the outcome of cases. In meeting this standard, the Unit's monitoring of the following case factors and outcomes will be considered [including numbers of arrests, convictions, overpayments, and civil

recoveries].'' In the 2011 proposed revision to the standards, OIG proposed that MFCUs design performance management systems that include performance goals and outcomes for case- and non-case work. The Association objected strongly to the draft standard, both because the development of performance management systems could be seen as a new mandate for many MFCUs as well as a perception that OIG was relying too heavily on statistical measures for assessing performance.

We agree with the Association that an exclusive reliance on case outcomes in evaluating performance is not appropriate for the Units. However, we also believe that the 1994 version of Standard 7 did not provide OIG an effective means to evaluate performance without further guidance on how MFCUs would systematically monitor outcomes. We have therefore eliminated a separate standard for the monitoring of case outcomes and have combined elements of the proposed standard with new Standard 7, ''Maintaining Case Information.''

While they are not included in these standards, we continue to believe that MFCUs, as an effective practice, should consider developing management systems or processes for monitoring and measuring the outcome of cases, for the purpose of improving performance. One way to accomplish this would be for MFCUs to monitor and measure the timeliness of their handling of key stages of the process or of similar types of cases. For example, a MFCU could review and monitor the length of time between the receipt of a referral and when the matter is accepted or declined for investigation. Another approach would be to monitor and measure the time spent in investigating a particular type of provider, such as pharmacies.

We believe that, in addition to monitoring and measuring of case outcomes, the Units should consider monitoring their own engagement in non-case activities that would improve performance. These activities may include, for example, training and outreach designed to increase referrals of fraud and patient abuse and neglect; liaison with program integrity staff, managed care organizations, and other law enforcement agencies to increase fraud referrals; and liaison on patient abuse and neglect matters with licensing and certification agencies, the State Long Term Care Ombudsman, or adult protective services offices.

As noted by the Association, OIG, consistent with Performance Standard 7, reviews statistical information provided by the MFCUs both for the purpose of analyzing MFCU operations and to provide information to the public about MFCU activities. In doing so, we emphasize that OIG does not intend that MFCUs be evaluated solely on the basis of statistical information. MFCUs are subject to various legal authorities and organizational constraints and, therefore, comparisons between two or more MFCUs based on statistical outcomes should be undertaken with caution.

Consistent with OIG's reliance on a variety of information sources in assessing performance, the performance standards themselves are an important oversight tool that aids OIG in assessing information on each of the topic areas covered by the standards. This information is important in recertifying the MFCUs and in evaluating whether a MFCU is operating effectively.

When OIG determines that a MFCU is deficient in meeting one or more standards, OIG will provide technical assistance or make recommendations for improvement. Ultimately, a Unit that continues to operate in an ineffective manner could be designated as a high-risk grantee and OIG may make a separate determination regarding the Unit's certification status under section 1903(q).

The revised standards, reflecting public comments, are set forth below. These standards may be further revised in future years based on experience gained in the oversight of the Units.

III. Standards for Assessing MFCU Performance

Performance Standard 1—Compliance With Requirements

A Unit conforms with all applicable statutes, regulations, and policy directives, including:

A. Section 1903(q) of the Social Security Act, containing the basic requirements for operation of a MFCU;

B. Regulations for operation of a MFCU contained in 42 CFR part 1007;

C. Grant administration requirements at 45 CFR part 92 and Federal cost principles at 2 CFR part 225;

D. OIG policy transmittals as maintained on the OIG Web site; and

E. Terms and conditions of the notice of the grant award.

Performance Standard 2—Staffing

A Unit maintains reasonable staff levels and office locations in relation to the State's Medicaid program expenditures and in accordance with staffing allocations approved in its budget. To determine whether a Unit meets this standard, OIG will consider the following performance indicators:

A. The Unit employs the number of staff that is included in the Unit's budget estimate as approved by OIG.

B. The Unit employs a total number of professional staff that is commensurate with the State's total Medicaid program expenditures and that enables the Unit to effectively investigate and prosecute (or refer for prosecution) an appropriate volume of case referrals and workload for both Medicaid fraud and patient abuse and neglect.

C. The Unit employs an appropriate mix and number of attorneys, auditors, investigators, and other professional staff that is both commensurate with the State's total Medicaid program expenditures and that allows the Unit to effectively investigate and prosecute (or refer for prosecution) an appropriate volume of case referrals and workload for both Medicaid fraud and patient abuse and neglect.

D. The Unit employs a number of support staff in relation to its overall size that allows the Unit to operate effectively.

E. To the extent that a Unit maintains multiple office locations, such locations are distributed throughout the State, and are adequately staffed, commensurate with the volume of case referrals and workload for each location.

Performance Standard 3—Policies and Procedures

A Unit establishes written policies and procedures for its operations and ensures that staff are familiar with, and adhere to, policies and procedures. To determine whether a Unit meets this standard, OIG will consider the following performance indicators:

A. The Unit has written guidelines or manuals that contain current policies and procedures, consistent with these performance standards, for the investigation and (for those Units with prosecutorial authority) prosecution of Medicaid fraud and patient abuse and neglect.

B. The Unit adheres to current policies and procedures in its operations.

C. Procedures include a process for referring cases, when appropriate, to Federal and State agencies. Referrals to State agencies, including the State Medicaid agency, should identify whether further investigation or other administrative action is warranted, such as the collection of overpayments or suspension of payments.

D. Written guidelines and manuals are readily available to all Unit staff, either online or in hard copy.

E. Policies and procedures address training standards for Unit employees.

Performance Standard 4—Maintaining Adequate Referrals

A Unit takes steps to maintain an adequate volume and quality of referrals from the State Medicaid agency and other sources. To determine whether a Unit meets this standard, OIG will consider the following performance indicators:

A. The Unit takes steps, such as the development of operational protocols, to ensure that the State Medicaid agency, managed care organizations, and other agencies refer to the Unit all suspected provider fraud cases. Consistent with 42 CFR 1007.9(g), the Unit provides timely written notice to the State Medicaid agency when referred cases are accepted or declined for investigation.

B. The Unit provides periodic feedback to the State Medicaid agency and other referral sources on the adequacy of both the volume and quality of its referrals.

C. The Unit provides timely information to the State Medicaid or other agency when the Medicaid or other agency requests information on the status of MFCU investigations, including when the Medicaid agency requests quarterly certification pursuant to 42 CFR 455.23(d)(3)(ii).

D. For those States in which the Unit has original jurisdiction to investigate or prosecute patient abuse and neglect cases, the Unit takes steps, such as the development of operational protocols, to ensure that pertinent agencies refer such cases to the Unit, consistent with patient confidentiality and consent. Pertinent agencies vary by State but may include licensing and certification agencies, the State Long Term Care Ombudsman, and adult protective services offices.

E. The Unit provides timely information, when requested, to those agencies identified in (D) above regarding the status of referrals.

F. The Unit takes steps, through public outreach or other means, to encourage the public to refer cases to the Unit.

Performance Standard 5—Maintaining a Continuous Case Flow

A Unit takes steps to maintain a continuous case flow and to complete cases in an appropriate timeframe based on the complexity of the cases. To determine whether a Unit meets this standard, OIG will consider the following performance indicators:

A. Each stage of an investigation and prosecution is completed in an appropriate timeframe.

B. Supervisors approve the opening and closing of all investigations and review the progress of cases and take action as necessary to ensure that each stage of an investigation and prosecution is completed in an appropriate timeframe.

C. Delays to investigations and prosecutions are limited to situations imposed by resource constraints or other exigencies.

Performance Standard 6—Case Mix

A Unit's case mix, as practicable, covers all significant provider types and includes a balance of fraud and, where appropriate, patient abuse and neglect cases. To determine whether a Unit meets this standard, OIG will consider the following performance indicators:

A. The Unit seeks to have a mix of cases from all significant provider types in the State.

B. For those States that rely substantially on managed care entities for the provision of Medicaid services, the Unit includes a commensurate number of managed care cases in its mix of cases.

C. The Unit seeks to allocate resources among provider types based on levels of Medicaid expenditures or other risk factors. Special Unit initiatives may focus on specific provider types.

D. As part of its case mix, the Unit maintains a balance of fraud and patient abuse and neglect cases for those States in which the Unit has original jurisdiction to investigate or prosecute patient abuse and neglect cases.

E. As part of its case mix, the Unit seeks to maintain, consistent with its legal authorities, a balance of criminal and civil fraud cases.

Performance Standard 7—Maintaining Case Information

A Unit maintains case files in an effective manner and develops a case management system that allows efficient access to case information and other performance data. To determine whether a Unit meets this standard, OIG will consider the following performance indicators:

A. Reviews by supervisors are conducted periodically, consistent with MFCU policies and procedures, and are noted in the case file.

B. Case files include all relevant facts and information and justify the opening and closing of the cases.

C. Significant documents, such as charging documents and settlement agreements, are included in the file.

D. Interview summaries are written promptly, as defined by the Unit's policies and procedures.

E. The Unit has an information management system that manages and tracks case information from initiation to resolution.

F. The Unit has an information management system that allows for the monitoring and reporting of case information, including the following:

1. The number of cases opened and closed and the reason that cases are closed.

2. The length of time taken to determine whether to open a case referred by the State Medicaid agency or other referring source.

3. The number, age, and types of cases in the Unit's inventory/docket.

4. The number of referrals received by the Unit and the number of referrals by the Unit to other agencies.

5. The dollar amount of overpayments identified.

6. The number of cases criminally prosecuted by the Unit or referred to others for prosecution, the number of individuals or entities charged, and the number of pending prosecutions.

7. The number of criminal convictions and the number of civil judgments.

8. The dollar amount of fines, penalties, and restitution ordered in a criminal case and the dollar amount of recoveries and the types of relief obtained through civil judgments or prefiling settlements.

Performance Standard 8—Cooperation With Federal Authorities on Fraud Cases

A Unit cooperates with OIG and other Federal agencies in the investigation and prosecution of Medicaid and other health care fraud. To determine whether a Unit meets this standard, OIG will consider the following performance indicators:

A. The Unit communicates on a regular basis with OIG and other Federal agencies investigating or prosecuting health care fraud in the State.

B. The Unit cooperates and, as appropriate, coordinates with OIG's Office of Investigations and other Federal agencies on cases being pursued jointly, cases involving the same suspects or allegations, and cases that have been referred to the Unit by OIG or another Federal agency.

C. The Unit makes available, to the extent authorized by law and upon request by Federal investigators and prosecutors, all information in its possession concerning provider fraud or fraud in the administration of the Medicaid program.

D. For cases that require the granting of ''extended jurisdiction'' to investigate Medicare or other Federal health care fraud, the Unit seeks permission from OIG or other relevant agencies under procedures as set by those agencies.

E. For cases that have civil fraud potential, the Unit investigates and

prosecutes such cases under State authority or refers such cases to OIG or the U.S. Department of Justice.

F. The Unit transmits to OIG, for purposes of program exclusions under section 1128 of the Social Security Act, all pertinent information on MFCU convictions within 30 days of sentencing, including charging documents, plea agreements, and sentencing orders.

G. The Unit reports qualifying cases to the Healthcare Integrity & Protection Databank, the National Practitioner Data Bank, or successor data bases.

Performance Standard 9—Program Recommendations

A Unit makes statutory or programmatic recommendations, when warranted, to the State government. To determine whether a Unit meets this standard, OIG will consider the following performance indicators:

A. The Unit, when warranted and appropriate, makes statutory recommendations to the State legislature to improve the operation of the Unit, including amendments to the enforcement provisions of the State code.

B. The Unit, when warranted and appropriate, makes other regulatory or administrative recommendations regarding program integrity issues to the State Medicaid agency and to other agencies responsible for Medicaid operations or funding. The Unit monitors actions taken by the State legislature and the State Medicaid or other agencies in response to recommendations.

Performance Standard 10—Agreement With Medicaid Agency

A Unit periodically reviews its Memorandum of Understanding (MOU) with the State Medicaid agency to ensure that it reflects current practice, policy, and legal requirements. To determine whether a Unit meets this standard, OIG will consider the following performance indicators:

A. The MFCU documents that it has reviewed the MOU at least every 5 years, and has renegotiated the MOU as necessary, to ensure that it reflects current practice, policy, and legal requirements.

B. The MOU meets current Federal legal requirements as contained in law or regulation, including 42 CFR 455.21, ''Cooperation with State Medicaid fraud control units,'' and 42 CFR 455.23, ''Suspension of payments in cases of fraud.''

C. The MOU is consistent with current Federal and State policy, including any policies issued by OIG or the Centers for Medicare & Medicaid Services (CMS).

D. Consistent with Performance Standard 4, the MOU establishes a process to ensure the receipt of an adequate volume and quality of referrals to the Unit from the State Medicaid agency.

E. The MOU incorporates by reference the *CMS Performance Standard for Referrals of Suspected Fraud From a State Agency to a Medicaid Fraud Control Unit.*

Performance Standard 11—Fiscal Control

A Unit exercises proper fiscal control over Unit resources. To determine whether a Unit meets this standard, OIG will consider the following performance indicators:

A. The Unit promptly submits to OIG its preliminary budget estimates, proposed budget, and Federal financial expenditure reports.

B. The Unit maintains an equipment inventory that is updated regularly to reflect all property under the Unit's control.

C. The Unit maintains an effective time and attendance system and personnel activity records.

D. The Unit applies generally accepted accounting principles in its control of Unit funding.

E. The Unit employs a financial system in compliance with the standards for financial management systems contained in 45 CFR 92.20.

Performance Standard 12—Training

A Unit conducts training that aids in the mission of the Unit. To determine whether a Unit meets this standard, OIG will consider the following performance indicators:

A. The Unit maintains a training plan for each professional discipline that includes an annual minimum number of training hours and that is at least as stringent as required for professional certification.

B. The Unit ensures that professional staff comply with their training plans and maintain records of their staff's compliance.

C. Professional certifications are maintained for all staff, including those that fulfill continuing education requirements.

D. The Unit participates in MFCU-related training, including training offered by OIG and other MFCUs, as such training is available and as funding permits.

E. The Unit participates in cross-training with the fraud detection staff of the State Medicaid agency. As part of such training, Unit staff provide training on the elements of successful fraud referrals and receive training on the role and responsibilities of the State Medicaid agency.

Dated: May 29, 2012.

Daniel R. Levinson,

Inspector General.

[FR Doc. 2012–13332 Filed 5–31–12; 8:45 am]

BILLING CODE 4152–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; CareerTrac

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Fogarty International Center (FIC), National Institute of Environmental Health Sciences (NIEHS), including the Intramural Research and Training Award (IRTA) and Superfund Research Program (SRP) within NIEHS, National Institute of General Medical Science (NIGMS), and National Cancer Institute (NCI), has submitted to the Office of Management and Budget (OMB) for review and approval. This is a renewal request. This proposed information collection was previously published in the **Federal Register** on May 12, 2009 (74 FR 22172). No comments were received from that notification regarding the cost and hour burden estimates.

Proposed Collection

Title: CareerTrac. *Type of Information Collection Request:* Revision (OMB NO.: 0925–0568 Expiration: September 30, 2012). *Need and Use of Information Collection:* This data collection system is being developed to track, evaluate and report short- and long-term outputs, outcomes and impacts of trainees involved in health research training programs—specifically tracking this for at least ten years following training by having Principal Investigators enter data after trainees have completed the program. The data collection system provides a streamlined, web-based application permitting principal investigators to record career achievement progress by trainee on a voluntary basis. FIC, NIEHS, NCI and NIGMS management will use this data to monitor, evaluate and adjust grants to ensure desired outcomes are achieved, comply with OMB Part requirements, respond to congressional inquiries, and as a guide to inform future strategic and management decisions regarding the grant program.

Frequency of Response: Annual and periodic *Affected Public:* none *Type of Respondents:* Principal Investigators and/or their administrators funded by FIC.NIEHS, NIGMS and NCI. The annual reporting burden is as follows: *Estimated Number of Respondents:* 365; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response* 7.5; and *Estimated Total Annual Burden Hours Requested:* 5,460. The annualized cost to respondents is estimated at $109,500. There are no Capital, Operating or Maintenance Cost to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Rachel Sturke, Evaluation Officer, Division of Science Policy, Planning, and Evaluation, FIC, NIH, 16 Center Drive, Bethesda, MD 20892, or call non-toll-free number 301 480–6025 or email your request, including your address to: *rachel.sturke@nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: May 17, 2012.

Dexter Collins,

Executive Officer, FIC, National Institutes of Health.

[FR Doc. 2012–13325 Filed 5–31–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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 Mental Health Special Emphasis Panel New Tools for Examining Astrocyte Heterogeneity.

Date: June 26, 2012.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd, Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 25, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–13308 Filed 5–31–12; 8:45 am]

BILLING CODE 4140–01–P

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. App.), 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: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry A Study Section.

Date: June 25, 2012.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102.

Contact Person: Mike Radtke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, *radtkem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Bioengineering Sciences and Technology.

Date: June 26, 2012.

Time: 3:00 p.m. to 5:00 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: Kee Hyang Pyon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7806, Bethesda, MD 20892, *pyonkh2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Risk, Prevention and Intervention for Addictions: Overflow.

Date: June 28–29, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance M Street Hotel, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, 301–496–0726, *prenticekj@mail.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies Study Section.

Date: June 28, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Washington, DC, M Street Northwest, Washington, DC 20036.

Contact Person: Valerie Durrant, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148,

MSC 7770, Bethesda, MD 20892, (301) 827–6390, *durrantv@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Rehabilitation Sciences Study Section.

Date: June 28–29, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 4300 Military Road, Washington DC, DC 20015.

Contact Person: Jo Pelham, BA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786, *pelhamj@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function E Study Section.

Date: June 28, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Nitsa Rosenzweig, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7760, Bethesda, MD 20892, (301) 435–1747, *rosenzweign@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Drug Discovery and Mechanisms of Antimicrobial Resistance Overflow.

Date: June 28–29, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cancer Diagnostics and Treatments.

Date: June 28–29, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Zhang-Zhi Hu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892, (301) 594–2414, *huzhuang@csr.nih.gov.*

Name of Committee: Oncology 1–Basic Translational Integrated Review Group; Molecular Oncogenesis Study Section.

Date: June 28, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Nywana Sizemore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, 301–435–1718, *sizemoren@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Eukaryotic Pathogens and Vectors.

Date: June 28–29, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Fouad A El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20814–9692, (301) 435–1149, *elzaataf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Neurodevelopment, Synaptic Plasticity and Neurodegeneration.

Date: June 28–29, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria Old Town, VA 22314.

Contact Person: Mary Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, 301–451–0996, *marygs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; R15 Applications.

Date: June 28–29, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20817, (Virtual Meeting).

Contact Person: Lawrence E Boerboom, Ph.D., Chief, CVRS IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–8367, *boerboom@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Drug Discovery for Aging, Neuropsychiatric and Neurologic Disorders.

Date: June 28–29, 2012.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Washington DC, 1150 22nd Street NW., Washington, DC.

Contact Person: Dan D Gerendasy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7843, Bethesda, MD 20892, 301–408–9164, *gerendad@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Brain Disorders, Language, Communication and Related Neurosciences.

Date: June 28–29, 2012.

Time: 8:00 a.m. to 5:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Washington DC, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Vilen A Movsesyan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301–402–7278, *movsesyanv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Behavioral Neuroscience.

Date: June 28–29, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437–0911, *kramerkm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biological Chemistry, Biophysics, and Drug Discovery.

Date: June 28, 2012.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102,

Contact Person: Sergei Ruvinov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1180, *ruvinser@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetics of Health and Disease Study Section.

Date: June 28–29, 2012.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Cheryl M Corsaro, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Multidisciplinary Healthcare Delivery Research AREA Grant Applications.

Date: June 28, 2012.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road, NW., Washington, DC 20008.

Contact Person: Priscah Mujuru, RN, MPH, DRPH, COHNS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, 301–594–6594, *mujurup@mail.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: May 25, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–13309 Filed 5–31–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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: Heart, Lung, and Blood Initial Review Group, Clinical Trials Review Committee.

Date: June 25–26, 2012.

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: Keary A Cope, Ph.D., Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–2222, *copeka@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 25, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–13313 Filed 5–31–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Biobehavioral and Behavioral Sciences Subcommittee.

Date: June 25–26, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road NW., Washington, DC 20008.

Contact Person: Marita R. Hopmann, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6911, *hopmannm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 25, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–13315 Filed 5–31–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Program Project Grant Review.

Date: June 13, 2012.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Helen Lin, Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20817, 301–594–4952, *linh1@mail.nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Career Development, Research Training & Pathways to Independence Review.

Date: June 20, 2012.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Charles H Washabaugh, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20817, 301–594–4952, *washabac@mail.nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; PROMIS Ancillary Studies.

Date: June 27–28, 2012.

Time: 2:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Charles N Rafferty, Ph.D., Chief, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20817, 301–594–5019, *charles.rafferty@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.846, Arthritis,

Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 23, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–13321 Filed 5–31–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Reproduction, Andrology, and Gynecology Subcommittee.

Date: June 28, 2012.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Holiday Inn Express, (Formerly the Legacy Hotel and Meeting Center), 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Dennis E. Leszczynski, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute Of Child Health and Human Development, NIH, 6100 Executive Blvd. Room 5B01, Bethesda, MD 20892, 301–435–2717, *leszcyd@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 25, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–13319 Filed 5–31–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Neuroscience Blueprint: Tools for Glial Research.

Date: June 20, 2012.

Time: 8:00 a.m. to 5:00 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: Sherry L. Dupere, Ph.D., Director, Division of Scientific Review, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–451–3415, *duperes@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 25, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–13314 Filed 5–31–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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 Nursing Research Initial Review Group.

Date: June 21, 2012.

Time: 8 a.m. to 6 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: Weiqun Li, M.D., Scientific Review Officer, National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Blvd., Ste. 710, Bethesda, MD 20892, (301) 594–5966, *wli@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: May 25, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–13310 Filed 5–31–12; 8:45 am]

BILLING CODE 4140–01–P

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. App.), 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 PAR Panel: Selected Topics in Transfusion Medicine.

Date: June 13, 2012.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Katherine M Malinda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0912, *Katherine_Malinda@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: Genes, Genomes, and Genetics Integrated Review Group Molecular Genetics A Study Section.

Date: June 25, 2012.

Time: 8:00 a.m. to 6:00 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 M Sveda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1114, MSC 7890, Bethesda, MD 20892, 301–435–3565, *svedam@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Epidemiology.

Date: June 25–26, 2012.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Denise Wiesch, Ph.D., Scientific Review Officer, 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*.

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR Panel: Biodemography of Aging.

Date: June 26–27, 2012.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Fellowship: Chemistry, Biochemistry, Biophysics, and Bioengineering.

Date: June 26–29, 2012.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7812, Bethesda, MD 20892, 301–435–2902, *gubina@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Skeletal Muscle Biology, Physiology and Disease.

Date: June 26, 2012.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Aftab A Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301–237–9931, *ansaria@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Translational Research in Diabetes, Obesity and Endocrine Disorders.

Date: June 27, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Nancy Sheard, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046–E, MSC 7892, Bethesda, MD 20892, 301–408–9901, *sheardn@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Clinical and Translational Imaging Applications.

Date: June 27, 2012.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Eileen W Bradley, DSC, Chief, SBIB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5100, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Neuronal Channels and Receptors Structure and Function.

Date: June 27, 2012.

Time: 1:00 p.m. to 3:30 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: Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7850, Bethesda, MD 20892, (301) 213–9887, *hamelinc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Gastrointestinal Physiology and Pathophysiology.

Date: June 27, 2012.

Time: 12:00 p.m. to 2:30 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: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@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: May 25, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–13312 Filed 5–31–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the Laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently certified Laboratories and Instrumented Initial Testing Facilities (IITF) is published in the **Federal Register** during the first week of each month. If any Laboratory/IITF's certification is suspended or revoked, the Laboratory/IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any Laboratory/IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the

past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1042, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs'', as amended in the revisions listed above, requires strict standards that Laboratories and Instrumented Initial Testing Facilities (IITF) must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies.

To become certified, an applicant Laboratory/IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a Laboratory/IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and Instrumented Initial Testing Facilities (IITF) in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A Laboratory/IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following Laboratories and Instrumented Initial Testing Facilities (IITF) meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Instrumented Initial Testing Facilities (IITF)

None.

Laboratories

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Analytical Laboratories, 345 Hill Ave., Nashville, TN 37210, 615–255–2400, (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc.)

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).

Maxxam Analytics,* 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700, (Formerly: Maxxam Analytics Inc., NOVAMANN (Ontario), Inc.).

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE. 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.

Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555.

Quest Diagnostics Incorporated, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227, (Formerly: SE.D. Medical Laboratories).

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370, (Formerly: SmithKline Beecham Clinical Laboratories).

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x1276.

Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.

STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438, Toxicology & Drug Monitoring Laboratory.

University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Janine Denis Cook,

Chemist, Division of Workplace Programs, Center for Substance Abuse Prevention, SAMHSA.

[FR Doc. 2012–13286 Filed 5–31–12; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2012–0009]

Critical Infrastructure Partnership Advisory Council (CIPAC)

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Notice of the CIPAC charter renewal.

SUMMARY: The Department of Homeland Security (DHS) announced the establishment of the Critical Infrastructure Partnership Advisory Council (CIPAC) by notice published in the **Federal Register** on March 24, 2006. This committee was exempted from the Federal Advisory Committee Act (FACA) under the authority of the Secretary of the Department of Homeland Security in section 871 of the Homeland Security Act of 2002, 6 U.S.C. 451(a); that notice identified the purpose of CIPAC as well as its membership. This notice provides (1) that the Secretary has determined that CIPAC and its exemption from FACA continues to serve the purpose for which it was established and has renewed its charter, which is required every two years; (2) instructions on how the public can obtain the CIPAC membership roster and other information on the Council; and (3) information on the membership within CIPAC of the members of the State, Local, Tribal, and Territorial Government Coordinating Council (SLTTGCC).

FOR FURTHER INFORMATION CONTACT: Larry May, Designated Federal Officer, Critical Infrastructure Partnership Advisory Council, Department of Homeland Security, National Protection and Programs Directorate, 245 Murray Lane, Mail Stop 0607, Arlington, VA 20598–0607.

SUPPLEMENTARY INFORMATION: *Notice of CIPAC Renewal:* The Secretary of Homeland Security extended the CIPAC charter on March 19, 2012, for a period of two years. The current CIPAC charter reflecting the Secretary's action is available on the CIPAC Web site (*http://www.dhs.gov/cipac*).

Purpose and Activities: CIPAC facilitates interaction between government officials and representatives of the community of owners and operators for each of the critical infrastructure sectors defined by Homeland Security Presidential Directive 7 (HSPD–7) and identified in the National Infrastructure Protection Plan. The scope of activities covered by CIPAC includes planning; coordinating among government and critical infrastructure owner/operator security partners; implementing security program initiatives; conducting operational activities related to critical infrastructure protection security measures, incident response, recovery, infrastructure resilience; reconstituting critical infrastructure assets and systems for both man-made and naturally occurring events; and sharing threat, vulnerability, risk mitigation, and infrastructure continuity information.

Organizational Structure: CIPAC members are organized into the eighteen HSPD–7 critical infrastructure sectors. A Sector Coordinating Council (SCC) generally exists within each sector containing critical infrastructure owner/operators. The SCC includes these critical infrastructure owners/operators or their representative trade associations. Each sector also has a Government Coordinating Council (GCC) whose membership includes a lead Federal agency, defined as the Sector Specific Agency, and all relevant Federal, state, local, tribal, and/or territorial government agencies (or their representative bodies) whose mission interests also involve the scope of the CIPAC activities for that particular sector.

Membership: CIPAC membership includes: (1) Critical infrastructure owner/operator members of an SCC; (2) trade association members of an SCC representing the interests of critical infrastructure owner/operators; (3) each sector's GCC; and (4) governmental officials who are part of DHS's SLTTGCC. The new charter also prohibits Federally registered lobbyists from representing SCC members at CIPAC meetings. This requirement complies with a Presidential Policy Memorandum, ''Lobbyists on Agency Boards and Commissions,'' issued on June 18, 2010.

CIPAC Membership Roster and Council Information: The current roster of CIPAC membership is published on the CIPAC Web site (*http://www.dhs.gov/cipac*) and is updated as CIPAC membership changes. Members of the public may visit the CIPAC Web site at any time to obtain current CIPAC membership as well as the current and historic list of CIPAC meetings and agendas.

Dated: May 22, 2012.

Larry May,

Designated Federal Officer for the CIPAC.

[FR Doc. 2012–13234 Filed 5–31–12; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2012–0029]

DHS Data Privacy and Integrity Advisory Committee

AGENCY: Privacy Office, DHS.

ACTION: Committee Management; Notice of Committee Charter Renewal.

SUMMARY: The Secretary of Homeland Security has determined that the renewal of the charter of the Data Privacy and Integrity Advisory Committee is necessary and in the public interest in connection with the Department of Homeland Security's performance of its duties. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

DATES: The committee's charter is effective May 8, 2012, and expires May 8, 2014.

ADDRESSES: If you desire to submit comments on this action, they must be submitted by (60 days after publication of Notice). Comments must be identified by DHS Docket Number (DHS–2012–0029) and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: PrivacyCommittee@dhs.gov.* Include the Docket Number (DHS–2012–0029) in the subject line of the message.
- *Fax:* (703) 483–2999
- *Mail:* Shannon Ballard, Designated Federal Officer, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, 245 Murray Lane SW., Mail Stop 0655, Washington, DC 20528.

Instructions: All submissions must include the words ''Department of Homeland Security'' and DHS–2012–0029, the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Shannon Ballard, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, Department of Homeland Security, 245 Murray Lane SW., Mail Stop 0655, Washington, DC 20528, by telephone (703) 235–0780, by fax (703) 235–0442, or by email to *PrivacyCommittee@dhs.gove*.

Responsible DHS Officials: Mary Ellen Callahan, Chief Privacy Officer and Shannon Ballard, Designated Federal Officer, 245 Murray Lane SW., Mail Stop 0655, Washington, DC 20528, *PrivacyCommittee@dhs.gov*, 703–235–0780.

SUPPLEMENTARY INFORMATION: *Purpose and Objective:* Under the authority of 6 U.S.C. 451, this charter renews the Data Privacy and Integrity Advisory Committee as a discretionary committee, which shall operate in accordance with the provisions of the *Federal Advisory Committee Act* (FACA), 5 U.S.C. App. 2. The Committee provides advice at the request of the Secretary of Homeland Security and the DHS Chief Privacy Officer on programmatic, policy, operational, administrative, and technological issues within the DHS that relate to personally identifiable information (PII), as well as data integrity and other privacy-related matters.

Dated: May 23, 2012.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2012–13051 Filed 5–31–12; 8:45 am]

BILLING CODE 9110–9L–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2012–0008]

Critical Infrastructure Partnership Advisory Council (CIPAC)

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Quarterly CIPAC membership update.

SUMMARY: The Department of Homeland Security (DHS) announced the establishment of the Critical Infrastructure Partnership Advisory Council (CIPAC) by notice published in the **Federal Register** Notice (71 FR 14930–14933) dated March 24, 2006. That notice identified the purpose of CIPAC as well as its membership. This notice provides: (i) The quarterly CIPAC membership updates; (ii) instructions on how the public can obtain the CIPAC membership roster and other information on the council; and, (iii) information on recently completed CIPAC meetings.

FOR FURTHER INFORMATION CONTACT: Larry May, Designated Federal Officer, Critical Infrastructure Partnership Advisory Council, Sector Outreach and Programs Division, Office of Infrastructure Protection, National Protection and Programs Directorate, U.S. Department of Homeland Security, 245 Murray Lane, Mail Stop 0607, Arlington, VA 20598–0607, by telephone (703) 603–5070 or via email at *CIPAC@dhs.gov.*

Responsible DHS Official: Larry May, Designated Federal Officer, Critical Infrastructure Partnership Advisory Council, Sector Outreach and Programs Division, Office of Infrastructure Protection, National Protection and Programs Directorate, U.S. Department of Homeland Security, 245 Murray Lane, Mail Stop 0607, Arlington, VA 20598–0607, by telephone (703) 603–5070 or via email at *CIPAC@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Purpose and Activity: The CIPAC facilitates interaction between government officials and representatives of the community of owners and/or operators for each of the critical infrastructure sectors defined by Homeland Security Presidential Directive 7 (HSPD–7) and identified in the National Infrastructure Protection Plan (NIPP). The scope of activities covered by the CIPAC includes planning; coordinating among government and critical infrastructure owner/operator security partners; implementing security program initiatives; conducting operational activities related to critical infrastructure protection security measures, incident response, recovery, infrastructure resilience, reconstituting critical infrastructure assets and systems for both man-made as well as naturally occurring events; and sharing threat, vulnerability, risk mitigation, and infrastructure continuity information.

Organizational Structure: CIPAC members are organized into eighteen (18) critical infrastructure sectors. Within all the sectors containing critical infrastructure owners/operators, there generally exists a Sector Coordinating Council (SCC) that includes critical infrastructure owners and/or operators or their representative trade associations. Each of the sectors also has a Government Coordinating Council (GCC) whose membership includes a lead Federal agency that is defined as the Sector Specific Agency (SSA), and all relevant Federal, state, local, tribal, and/or territorial government agencies (or their representative bodies) whose mission interests also involve the scope of the CIPAC activates for that particular sector.

CIPAC Membership: CIPAC Membership may include:

(i) Critical Infrastructure owner and/or operator members of an SCC;

(ii) Trade association members who are members of an SCC representing the interests of critical infrastructure owners and/or operators;

(iii) Each sector's Government Coordinating Council (GCC) members; and;

(iv) State, local, tribal, and territorial governmental officials comprising the DHS State, Local, Tribal, and Territorial GCC.

CIPAC Membership Roster and Council Information: The current roster

of CIPAC membership is published on the CIPAC Web site (*http://www.dhs.gov/cipac*) and is updated as the CIPAC membership changes. Members of the public may visit the CIPAC Web site at any time to obtain current CIPAC membership as well as the current and historic list of CIPAC meetings and agendas.

Dated: May 23, 2012.

Larry May,

Designated Federal Officer for the CIPAC.

[FR Doc. 2012–13236 Filed 5–31–12; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2012–0472]

Information Collection Requests to Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit Information Collection Requests (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collections of information: 1625–0016, Welding and Hot Work Permits; Posting of Warning Signs; 1625–0023, Barge Fleeting Facility Records; 1625–0038, Plan Approval and Records for Tank Vessels, Passenger Vessels, Cargo and Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical School Vessels and Oceanographic Research Vessels—46 CFR Subchapters D, H, I, I–A, R and U; and 1625–0039, Declaration of Inspection Before Transfer of Liquid Cargo in Bulk. Our ICRs describe the information we seek to collect from the public. Before submitting these ICRs to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before July 31, 2012.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2012–0472] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

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

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–611), ATTN Paperwork Reduction Act Manager, US Coast Guard, 2100 2nd ST SW STOP 7101, Washington, DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Ms. Kenlinishia Tyler, Office of Information Management, telephone 202–475–3652, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collections. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2012–0472], and must be received by July 31, 2012. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2012–0472], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (*via http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov*, and type ''USCG–2012–0472'' in the ''Keyword'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed

postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2012–0472'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information Collection Requests

1. *Title:* Welding and Hot Work Permits; Posting of Warning Signs.

OMB Control Number: 1625–0016.

Summary: This information collection helps to ensure that waterfront facilities and vessels are in compliance with safety standards. A permit must be issued prior to welding or hot work at certain waterfront facilities; and, the posting of warning signs is required on certain facilities.

Need: The information is needed to ensure safe operations on certain waterfront facilities and vessels.

Forms: CG–4201.

Respondents: Owners and operators of certain waterfront facilities and vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 425 hours to 546 hours a year.

2. *Title:* Barge Fleeting Facility Records.

OMB Control Number: 1625–0023.

Summary: This collection of information requires the person-in-charge of a barge fleeting facility to keep records of twice daily inspections of barge moorings and movements of barges and hazardous cargo in and out of the facility.

Need: Title 33 CFR 165.803 requirements are intended to prevent barges from breaking away from a fleeting facility and drifting downstream out of control in the congested Lower Mississippi River waterway system.

Forms: None.

Respondents: Operators of barge fleeting facilities.

Frequency: Daily.

Burden Estimate: The estimated burden has decreased from 60,390 hours to 50,453 hours a year.

3. *Title:* Plan Approval and Records for Tank Vessels, Passenger Vessels, Cargo and Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical School Vessels and Oceanographic Research Vessels—46 CFR Subchapters D, H, I, I–A, R and U.

OMB Control Number: 1625–0038.

Summary: This collection requires the shipyard, designer or manufacturer for the construction of a vessel to submit plans, technical information and operating manuals to the Coast Guard.

Need: Under 46 U.S.C. 3301 and 3306, the Coast Guard is responsible for enforcing regulations promoting the safety of life and property in marine transportation. The Coast Guard uses this information to ensure that a vessel meets the applicable standards for construction, arrangement and equipment under 46 CFR Subchapters D, H, I, I–A, R and U.

Forms: None.

Respondents: Shipyards, designers, and manufacturers of certain vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 2,970 hours to 3,589 hours a year.

4. *Title:* Declaration of Inspection Before Transfer of Liquid Cargo in Bulk.

OMB Control Number: 1625–0039.

Summary: A Declaration of Inspection (DOI) documents the transfer of oil and hazardous materials, to help prevent spills and damage to a facility or vessel. Persons-in-charge of the transfer operations must review and certify compliance with procedures specified by the terms of the DOI.

Need: Title 33 U.S.C. 1321(j) authorizes the Coast Guard to establish regulations to prevent the discharge of oil and hazardous material from vessels and facilities. The DOI regulations appear at 33 CFR 156.150 and 46 CFR 35.35–30.

Forms: None.

Respondents: Persons-in-charge of transfers.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 67,825 hours to 62,514 hours a year.

Dated: May 25, 2012.

R. E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2012–13242 Filed 5–31–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Proposed Collection; Comment Request, Affidavit of Support Under Section 213A of the Act

ACTION: 60-Day Notice of Information Collection Under Review: Extension, without change, of a currently approved collection; Form I–864, Affidavit of Support Under Section 213A of the Act; Form I–864A, Contract Between Sponsor and Household Member, Form I–864 EZ, Affidavit of Support Under Section 213A of the Act; Form I–864W, Intending Immigrant's Affidavit of Support Exemption; OMB Control No. 1615–0075.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 31, 2012.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Office of Policy and Strategy, Laura Dawkins, Acting Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via email at *uscisfrcomment@dhs.gov.* When submitting comments by email add the OMB Control Number 1615–0075 in the subject box.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of 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, without change, of a currently approved collection.

(2) *Title of the Form/Collection:* Affidavit of Support Under Section 213A of the Act.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–864, Affidavit of Support Under Section 213A of the Act; Form I–864A, Contract Between Sponsor and Household Member, Form I–864EZ, Affidavit of Support Under Section 213A of the Act; Form I–864W, Intending Immigrant's Affidavit of Support Exemption.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Individuals or households. These forms are used by family-based and certain employment-based immigrants to have the petitioning relative execute an Affidavit of Support on their behalf.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Form I–864, 439,500 responses at 6 hours per response; Form I–864A, 215,800 responses at 1.75 hours per response; Form I–864EZ, 100,000 responses at 2.5 hours per response; Form I–864W, 1,000 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,265,650 Hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* You may also contact USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529, Telephone number 202–272–8377.

Dated: May 25, 2012.

Laura Dawkins,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–13261 Filed 5–31–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Proposed Collection; Comment Request, H–2 Petitioner's Employment Related or Fee Related Notification

ACTION: 60-Day Notice of Information Collection Under Review: Extension, without Change, of a Currently Approved Collection; No Form; OMB Control No.1615–0107.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 31, 2012.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Office of Policy and Strategy, Laura Dawkins, Acting Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via email at *uscisfrcomment@dhs.gov.* When submitting comments by email add the OMB Control Number 1615–0107 in the subject box.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of 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, without change, of a currently approved collection.

(2) *Title of the Form/Collection:* H–2 Petitioner's Employment Related or Fee Related Notification.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No Form; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. The notification requirement is necessary to ensure that alien workers maintain their nonimmigrant status and will help prevent H–2 workers from engaging in unauthorized employment.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,700 respondents with an estimated hour burden per response of .5 hour (30 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* 850 Hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529, Telephone number 202–272–8377.

Dated: May 25, 2012.

Laura Dawkins,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–13262 Filed 5–31–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Proposed Collection; Comment Request, National Interest Waivers, Supplemental Evidence to I–140 and I–485

ACTION: 60-Day Notice of Information Collection Under Review: Extension, without change, of a currently approved collection; No Form; OMB Control No.1615–0063.

* * * * *

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 31, 2012.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Office of Policy and Strategy, Laura Dawkins, Acting Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via email at *uscisfrcomment@dhs.gov.* When submitting comments by email add the OMB Control Number 1615–0063 in the subject box.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of 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, without change, of a currently approved collection.

(2) *Title of the Form/Collection:* National Interest Waivers, Supplemental Evidence to I–140 and I–485.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No Form; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The supplemental documentation will be used by the U.S. Citizenship and Immigration Services to determine eligibility for national interest waiver requests for physicians and to finalize the request for adjustment to lawful permanent resident status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 8,000 respondents responding an estimated 2 times per year with an estimated hour burden per response of 1 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 16,000.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* You may also contact USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529, Telephone number 202–272–8377.

Dated: May 25, 2012.

Laura Dawkins,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–13259 Filed 5–31–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Proposed Collection; Comment Request, Request To Enforce Affidavit of Financial Support and Intent To Petition for Custody for Amerasian

ACTION: 60-Day Notice of Information Collection Under Review: Extension, without change, of a currently approved collection; USCIS Form I–363, Request To Enforce Affidavit of Financial Support and Intent To Petition for Custody for Public Law 97–359 Amerasian; OMB Control No.1615–0022.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 31, 2012.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Office of Policy and Strategy, Laura Dawkins, Acting Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via email at *uscisfrcomment@dhs.gov.* When submitting comments by email add the OMB Control Number 1615–0022 in the subject box.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of 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, without change, of a currently approved collection.

(2) *Title of the Form/Collection:* Request to Enforce Affidavit of Financial Support and Intent to Petition for Custody for Public Law 97–359 Amerasian.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* USCIS Form I–363, Request to Enforce Affidavit of Financial Support and Intent to Petition for Custody for Public Law 97–359 Amerasian.; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–363 is used by applicants to ensure the financial support of a U.S. citizen. Without the use of Form I–363, the USCIS is not able to ensure the child does not become a public charge.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 respondents responding with an estimated hour burden per response of .5 hour (30 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* 25 Hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* You may also contact USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529, Telephone number 202–272–8377.

Dated: May 25, 2012.

Laura Dawkins,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–13258 Filed 5–31–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603–N–35]

Notice of Proposed Information Collection for Public Comment: Fiscal Year 2012 Disaster Recovery Grant Application and Setup in the Disaster Recovery Grant Reporting System; Emergency Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 15, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number (2506–New) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; email: *OIRA Submission@omb.eop.gov* ; fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Community Planning and Development, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20401; telephone (202) 402–4559 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Fiscal Year 2012 Disaster Recovery Grant Application and Setup in the Disaster Recovery Grant Reporting System.

Description of Information Collection: This emergency processing request meets the requirements at 5 CFR 1320.13 due to the Department's inability to anticipate the Presidentially-declared disasters and the impact on local housing stock and businesses. Even after a disaster occurred, funding appropriations take place only at the will of Congress, further limiting the Department's ability to predict if, when, and how funds will be appropriated. Although Congress appropriated the funds in November 2011, grantees were not identified and requirements of the program were not known for some time after. Submitting a standard (60 day) PRA collection will negatively impact both families and local economies by delaying the implementation of recovery activities beyond this construction season.

Frequency of Submission: Other, one-time only.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	680	0.025		158.76		2,699

Total Estimated Burden Hours: 2,699.
Status: New collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 25, 2012.

Colette Pollard,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2012–13336 Filed 5–31–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5601–N–21]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Army:* Ms. Veronica Rines, Department of the Army, Office of the Assistant Chief of Staff for Installation Management, DAIM–ZS, Room 8536, 2511 Jefferson Davis Hwy., Arlington, VA 22202, Suite 1000, Washington, DC 20374; (202) 685–9426 (202) 501–0084; (These are not toll-free numbers).

Dated: May 24, 2012.

Mark Johnston,

Assistant Secretary (Acting) for Community Planning and Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 06/01/2012

Suitable/Available Properties

Building

Alabama

23 Buildings
Redstone Arsenal
Redstone Arsenal AL 35898
Landholding Agency: Army
Property Number: 21201220053
Status: Unutilized
Directions: 1418, 1417, 1413, 1400, 1419, 1420, 1423, 1424, 1426, 1427, 1428, 1429, 1430, 1433, 1434, 1435, 1436, 1437, 3410, 3411, 3412, 3413, 7310
Comments: off-site removal only; sf. varies; usage varies; extensive repairs needed; secured area; need prior approval to access properties

[FR Doc. 2012–13092 Filed 5–31–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2012–N117; FXES11120800000F2–123–FF08ECAR00]

Endangered and Threatened Wildlife and Plants; Incidental Take Permit Application; Proposed Low-Effect Habitat Conservation Plan and Associated Documents; Riverside County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Smoke Tree, Inc. (applicant), for a 75-year incidental take permit (permit); the application

includes the applicant's proposed habitat conservation plan (HCP) as required by the Endangered Species Act of 1973, as amended (Act). If approved, the permit would authorize incidental take of the endangered Casey's June beetle (*Dinacoma caseyi*) in the course of routine activities associated with the occupation, use, and maintenance of Smoke Tree Ranch, a residential and guest ranch community established in its present configuration in 1925. We invite public comment on the permit application and proposed HCP, and on our preliminary determination that the HCP qualifies as ''low-effect'' for a categorical exclusion under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, which are also available for review.

DATES: To ensure consideration, please send your written comments by July 2, 2012.

ADDRESSES: *Obtaining Documents:* You may request a copy of the incidental take permit application, proposed HCP, and associated documents by email, telephone, fax, or U.S. mail (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Please send your requests or comments by any one of the following methods, and specify ''Smoke Tree Ranch HCP'' in your request or comment.

Submitting Comments: You may submit comments or requests for more information by any of the following methods:

Email: ken_corey@fws.gov. Include ''Smoke Tree Ranch HCP'' in the subject line of your message.

Telephone: Kennon A. Corey, Palm Springs Fish and Wildlife Office, 760–322–2070.

Fax: Kennon A. Corey, Palm Springs Fish and Wildlife Office, 760–322–4648, Attn.: Smoke Tree Ranch HCP.

U.S. Mail: Kennon A. Corey, Palm Springs Fish and Wildlife Office, Attn.: Smoke Tree Ranch HCP, U.S. Fish and Wildlife Service, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262.

In-Person Viewing or Pickup of Documents, or Delivery of Comments: Call 760–322–2070 to make an appointment during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kennon A. Corey, Assistant Field Supervisor, Palm Springs Fish and Wildlife Office; telephone 760–332–2070. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

The applicant, Smoke Tree, Inc., requests an incidental take permit under section 10(a)(1)(B) of the Act. If we approve the permit, the applicant anticipates taking Casey's June beetle as a result of minor disturbances to habitat the species uses for breeding, feeding, and sheltering. Take of Casey's June beetle would be incidental to the applicant's continuation of routine activities associated with occupation, use, and maintenance of existing residential and guest facilities at Smoke Tree Ranch, in the City of Palm Springs, Riverside County, California. We published a final rule to list Casey's June beetle as endangered and designate critical habitat for it on September 22, 2011 (76 FR 58954). The rule became effective October 24, 2011.

Background

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and our implementing Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17 prohibit the ''take'' of wildlife species listed as endangered or threatened. Take of listed wildlife is defined under the Act as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in any such conduct'' (16 U.S.C. 1538). ''Harm'' includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns such as breeding, feeding, or sheltering (50 CFR 17.3). Under limited circumstances, we may issue permits to authorize incidental take of listed wildlife species, which the Act defines as take that is incidental to, and not the purpose of, the carrying out of otherwise lawful activities.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. In addition to meeting other criteria, activities covered by an incidental take permit must not jeopardize the continued existence in the wild of federally listed wildlife or plants.

Applicant's Proposal

The applicant requests a 75-year permit under section 10(a)(1)(B) of the Act. If we approve the permit, the applicant anticipates taking Casey's June beetles (*Dinacoma caseyi*) as a result of minor disturbances to approximately 260 acres (ac) (105 hectares (ha)) of habitat the species uses for breeding, feeding, and sheltering. The take would be incidental to the applicant's continuation of routine activities associated with the occupation, use, and maintenance of existing residential and guest facilities at Smoke Tree Ranch in the City of Palm Springs, Riverside County, California. No new development resulting in the destruction of open space habitat would occur, nor would there be any new activities other than those that have occurred over the 87 years that Smoke Tree Ranch has been in existence.

Smoke Tree Ranch was originally developed in 1925 as a desert retreat for visitors and permanent residents. The entire 400-ac (162-ha) Smoke Tree, Inc., property encompasses a residential community of 93 single-family homes, a 20-ac (8-ha) guest ranch of cottages with recreation amenities, and peripheral commercial development of shopping centers and horse stables. The property also includes undeveloped open space that extends into Palm Canyon Wash and to the base of the Santa Rosa Mountains. The location of Smoke Tree Ranch is within habitat occupied by Casey's June beetle, a species adapted to desert vegetation and soil types found in Palm Canyon Wash and adjacent areas, including Smoke Tree Ranch, in the City of Palm Springs.

To minimize take of Casey's June beetle on Smoke Tree Ranch, the applicant proposes to mitigate for minor disturbance to approximately 260 ac (105 ha) of Casey's June beetle habitat by continuing to preserve approximately 103 ac (42 ha) of natural, open space habitat occupied by Casey's June beetle and preserved under existing conservation easements. In addition, the applicant proposes to conserve under new deed restrictions approximately 11.5 ac (4.6 ha) of natural, open space habitat occupied by Casey's June beetle; this habitat is the last remaining undeveloped open space available on Smoke Tree Ranch. The applicant's proposed HCP also contains the following proposed measures to minimize the effects of routine activities to Casey's June beetle on approximately 260 ac (105 ha) of areas already developed for residential and guest ranch use on Smoke Tree Ranch, which the applicant enforces through covenants, conditions, and restrictions and through written directives to residents each year:

- Prohibition of electronic ''bug zappers.''
- Limitations on outdoor and swimming pool lighting.
- Use of pool covers on new swimming pools during the

reproductive flight season of Casey's June beetle (March through June).

• Prohibition of pesticide, herbicide, and fertilizer use in the conservation areas.

• Prohibition of ground irrigation in open desert areas, including the conservation areas.

Proposed Habitat Conservation Plan Alternatives

In the proposed HCP, the applicant considers alternatives to the taking of Casey's June beetle under the proposed action. Our proposed action is to issue an incidental take permit to the applicant, who would implement the HCP. If we approve the permit, take of Casey's June beetle would be authorized for the applicant's continuation of routine activities associated with the occupation, use, and maintenance of an existing residential and guest ranch community. The applicant's proposed HCP does not identify an alternative that would not result in incidental take of Casey's June beetle, because it is infeasible for Smoke Tree Ranch to cease the routine operations that have been implemented over the 87 years that Smoke Tree Ranch has been in operation without constricting the day-to-day life of residents and guests, and risking impacts to property values, neighborhood desirability, guest ranch amenities, and the overall economic viability of the community.

Our Preliminary Determination

We invite comments on our preliminary determination that our proposed action, based on the applicant's proposed activities, including the proposed minimization and mitigation measures, would have a minor or negligible effect on Casey's June beetle, and that the HCP qualifies as ''low effect'' as defined by our *Habitat Conservation Planning Handbook* (November 1996).

We base our determination that a HCP qualifies as a low-effect plan on the following three criteria:

(1) Implementation of the HCP would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats;

(2) Implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and

(3) Impacts of the HCP, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant.

As more fully explained in our environmental action statement and associated low-effect screening form, the applicant's proposed HCP qualifies as a low-effect HCP for the following reasons:

• The applicant would continue to preserve in perpetuity approximately 103 ac (42 ha) of natural open space occupied by Casey's June beetle.

• The applicant would preserve an additional 11.5 ac (4.6 ha) of natural open space occupied by Casey's June beetle.

• No new destruction of natural open space habitat would occur.

• No adverse modification of designated critical habitat for Casey's June beetle would occur.

• No impacts would occur to any other threatened, endangered, proposed, or candidate species, nor would there be any adverse modification of designated or proposed critical habitat for any other listed or proposed species.

• Human occupation, use, and maintenance of residences, the guest ranch, and open space areas would result in the same low-intensity dispersed, minor disturbance to habitat as a result of the same routine operations that have occurred on Smoke Tree Ranch over the past 87 years.

• Injury and mortality of individual beetles resulting from human activities associated with routine operations would be minor and, with implementation of minimization measures and preservation of conservation easement areas, would be less over the 75-year permit term than what has occurred during the past 87 years.

• Historical residential and guest ranch use has been demonstratively compatible with survival of the beetle, as some of the highest observed numbers and most consistent collections of the beetle have been made in Smoke Tree Ranch, where the largest and most protected area of remaining occupied habitat is currently found (76 FR 58954; September 22, 2011).

• The current abundance of Casey's June beetle on Smoke Tree Ranch is primarily the result of minimal past disturbance within the regulated, gated residential community; the existence of the relatively large, contiguous, minimally disturbed area dominated by native desert vegetation that the beetle occupies; and the supplemental soil moisture on site from landscaping irrigation in the residential and guest ranch areas (76 FR 58954; September 22, 2011). These existing conditions will continue to be perpetuated, and we expect the beetle will continue to be found in abundance on Smoke Tree Ranch.

Therefore, our proposed issuance of the requested incidental take permit qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1, 516 DM 6 Appendix 1, and 516 DM 8.5(C)(2)). Based on our review of public comments that we receive in response to this notice, we may revise this preliminary determination.

Next Steps

We will evaluate the proposed HCP and comments we receive to determine whether the permit application meets the requirements and issuance criteria under section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). We will also evaluate whether issuance of a section 10(a)(1)(B) incidental take permit would comply with section 7 of the Act by conducting an intra-Service consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue a permit. If the requirements and issuance criteria under section 10(a) are met, we will issue the permit to the applicant for incidental take of Casey's June beetle.

Public Comments

If you wish to comment on the permit application, proposed HCP, and associated documents, you may submit comments by any of the methods noted in the **ADDRESSES** section.

Public Availability of Comments

Before including your address, phone number, email 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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Jim A. Bartel,

Field Supervisor.

[FR Doc. 2012–13394 Filed 5–31–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY922000–L13200000–EL0000, WYW180763]

Notice of Invitation To Participate; Coal Exploration License Application WYW180763, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to Bureau of Land Management (BLM) regulations, all interested parties are hereby invited to participate with Cordero Mining LLC, on a pro rata cost-sharing basis, in its program for the exploration of coal deposits owned by the United States in Campbell County, Wyoming.

DATES: This notice of invitation has been published in the *Gillette News-Record* once each week for 2 consecutive weeks beginning the week of May 14, 2012, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the BLM and Cordero Mining LLC, as provided in the **ADDRESSES** section below, no later than 30 days after publication of this invitation in the **Federal Register**.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (case file number WYW180763): BLM, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003; and, BLM, High Plains District Office, 2987 Prospector Drive, Casper, Wyoming 82604. The written notice should be sent to the following addresses: Cordero Mining LLC, c/o Cloud Peak Energy, Attn: Mark Arambel, Caller Box 3009, Gillette, Wyoming 82717, and BLM, Wyoming State Office, Branch of Solid Minerals, Attn: Mavis Love, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Mavis Love, Land Law Examiner, at 307–775–6258. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Cordero Mining LLC, has applied to the BLM for a coal exploration license on public land adjacent to its Cordero Rojo Coal Mine. The purpose of the exploration program is to obtain structural and quality information about the coal. The BLM regulations at 43 CFR part 3410 require the publication of an invitation to participate in the coal exploration in the **Federal Register**. The Federal coal resources included in the exploration license application are located in the following described lands in Wyoming:

6th Principal Meridian

T. 46 N., R. 71 W.,
Sec. 9, lots 6 through 8 inclusive;
Sec. 10, lots 7 through 10 inclusive;
Sec. 11, lots 13 through 16 inclusive;
Sec. 14, lots 1 through 6 inclusive and lots 11 through 14 inclusive;
Sec. 15, lots 1 through 16 inclusive;
T. 47 N., R. 71 W.,
Sec. 7, lots 6 through 11 inclusive and lots 14 through 19 inclusive;
Sec. 17, lots 1 through 15 inclusive and SW¼NW¼;
Sec. 18, lots 5, 6, 11, 12;
Sec. 20, lot 1;
Sec. 21, lot 4;
T. 47 N., R. 72 W.,
Sec. 1, lots 9 through 13 inclusive and NW¼SE¼; and
Sec. 12, lots 1 through 16 inclusive.

Containing 3,747.91 acres, more or less, in Campbell County.

The proposed exploration program is fully described in, and will be conducted pursuant to, an exploration plan to be approved by the BLM.

Authority: 43 CFR 3410.2–1(c)(1).

Donald A. Simpson,

State Director.

[FR Doc. 2012–13337 Filed 5–31–12; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVE0000 L51100000.GN0000 LVEMF1000570; 12–08807; MO# 4500033252; TAS: 14X5017]

Notice of Availability of the Draft Environmental Impact Statement for the Hollister Underground Mine Project, Elko County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA) and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) for the Hollister Underground Mine Project and by this notice is announcing the opening of the public comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Hollister Underground Mine Project Draft EIS within 45 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM will announce future meetings and any other public involvement activities at least 15 days in advance through public notices, news media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Hollister Underground Mine Project by any of the following methods:

- *Email: BLM_NV_ELDOHollisterEISTeam@blm.gov*
- *Fax:* 775–753–0255
- *Mail:* Bureau of Land Management, Hollister Underground Mine Project, Attention: Janice Stadelman, Project Manager, 3900 Idaho Street, Elko NV 89801

Copies of the Hollister Underground Mine Project Draft EIS are available in the BLM Elko District Office at the above address and online at: *http://www.blm.gov/nv/st/en/fo/elko_field_office.html.*

FOR FURTHER INFORMATION CONTACT: Janice Stadelman, Project Manager; telephone 775–753–0346; address 3900 Idaho Street, Elko, NV 89801; email: *BLM_NV_ELDOHollisterEISTeam@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Rodeo Creek Gold, Inc. proposed an amendment to its plan of operations for the Hollister Underground Mine Project. The proposed amendment would transition its existing underground exploration operations into an underground gold and silver mining operation. Most of the necessary infrastructure to support a mining operation was authorized and built in conjunction with the underground exploration activities. The proposed project would be located 47 miles northwest of Elko in Elko County, Nevada. The proposed project is estimated to provide approximately 200 jobs and to operate for 20 years.

The current exploration project created approximately 105 acres of surface disturbance, of which 95 acres occur on public land and 10 acres occur on private land. About 75 percent of the existing facilities are located on previously disturbed ground within an existing open-pit mine. The proposed transition from an exploration project to a mining operation would disturb approximately 117 acres; an additional 106 acres of public land and an additional 11 acres of private land. If approved, the project total would be approximately 222 acres of surface disturbance.

The proposed project consists of constructing a new production shaft, improving existing roads, building an electrical power transmission line to the mine site, upgrading ancillary facilities, and continuing both surface and underground exploration. The proposed project would augment the existing mine water management facilities that currently include water treatment facilities and rapid infiltration basins by adding underground dewatering wells and obtaining a National Pollutant Discharge Elimination System permit to authorize discharge of groundwater to Little Antelope Creek. The Hollister Project would haul the mined ore using highway-legal trucks to existing off-site milling facilities via existing roads that would be improved as needed; no on-site processing facilities are proposed.

The Notice of Intent to prepare an EIS was published in the **Federal Register** on April 19, 2010. Scoping meetings and mailings were conducted to solicit public input to identify issues to be analyzed. The BLM contacted tribal governments with interest in this project to learn their issues and concerns and to conduct government-to-government consultation. Cooperating agencies include the Nevada Division of Wildlife and the Elko County Board of Commissioners.

During the public scoping period, the BLM received a total of 46 written comment submittals containing approximately 288 individual items. Key issues identified by individuals, groups, and governmental entities include: Potential impacts to cultural resources and the traditional cultural properties; access; noise; discharge to surface water, hydrology, and seeps and springs resulting from the groundwater drawdown; special status species, including snails and sage-grouse; potentially acid-generating waste-rock material; air quality; and support for the project. The scoping comments were used to guide the development of the alternatives and analysis, and address issues and concerns raised in regards to the proposed project. The Draft EIS addresses the direct, indirect, and cumulative environmental impacts of the proposed action, which is approval of the project as proposed by Rodeo Creek Gold, and alternatives.

Four alternatives, in addition to the proposed action, are analyzed in the Draft EIS. These alternatives include the No Action Alternative, Mud Springs Road Transmission Line Alternative, Mud Springs Waste Rock Storage Facility Alternative, and the Backfill Alternative. The project would continue as it is currently permitted under the No Action Alternative. The Mud Springs Road Transmission Line Alternative describes an alternative north and south route for the proposed electric transmission line. The Mud Springs Waste Rock Storage Facility Alternative describes an alternate location for a new waste rock storage facility. The Backfill Alternative describes an alternative means of closure for the proposed shafts, which is to completely backfill the shaft with rock and dirt material.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10.

Michael Herder,

District Manager, Elko District Office.

[FR Doc. 2012–13229 Filed 5–31–12; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMP0000 L13110000.XH0000]

Notice of Public Meeting, Pecos District Resource Advisory Council Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Pecos District Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held on July 18, 2012, from 9 a.m.–4 p.m.

ADDRESSES: The meeting will be at the Bureau of Land Management Ft. Stanton Snowy River Cave National Conservation Area ''Bunkhouse'', located at 1534 NM State Road 220, 1.75 miles from the junction of US Highway 380 and NM State Road 220. The public may send written comments to the RAC, 2909 W. 2nd Street, 88201.

FOR FURTHER INFORMATION CONTACT: Betty Hicks, Pecos District, Bureau of Land Management, 2909 W. 2nd Street, Roswell, NM 88201, 575–627–0242. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8229 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 10-member RAC advises the Secretary of Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in New Mexico. Planned agenda items include: A briefing on Ft. Stanton Snowy River Cave National Conservation Area; cave management on BLM managed lands; White Nose syndrome; cave/carst management in oil and gas development areas; partnerships and vegetation management, a tour for RAC members of the Fort Stanton/Lincoln NM area and a demonstration of resistivity to locate subterranean features.

A half-hour public comment period during which the public may address the Council is scheduled to begin at 11:30 a.m. All RAC meetings are open to the public. Depending on the number of individuals wishing to comment and time available, the time for individual oral comments may be limited.

Douglas J. Burger,

District Manager.

[FR Doc. 2012–13393 Filed 5–31–12; 8:45 am]

BILLING CODE 4310–VA–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–PWRO–0411–10061; 8140–P122–579]

Notice of Intent To Prepare Environmental Impact Statement for Alcatraz Ferry Embarkation Site, Golden Gate National Recreation Area, San Francisco and Marin Counties, CA

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement for Alcatraz Ferry Embarkation Site.

SUMMARY: In accordance with § 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, and pursuant to the Council on Environmental Quality's regulations (40 CFR parts 1500–08), the National Park Service (NPS) is initiating the conservation planning and environmental impact analysis process for the proposed establishment of a long-term ferry embarkation site for passenger ferry service between the northern San Francisco waterfront and Alcatraz Island. In addition to considering the Alcatraz Ferry Embarkation site, the Environmental Impact Statement (EIS) will also evaluate potential for a secondary ferry transit service offering a cross-bay connection from the San Francisco embarkation site to Sausalito and/or Fort Baker. NPS is the lead federal agency for the environmental review under NEPA, and is developing the project in coordination with the Port of San Francisco (Port) and City and County of San Francisco (City) planning and transportation agencies.

As set forth in 36 CFR 800.8(c), the NPS is also using the NEPA process to fulfill certain provisions of § 106 of the National Historic Preservation Act related to consultation and public involvement. In addition, the NPS has requested that the Port and the City be cooperating agencies for the EIS. In the event that a site on Port property is identified as the preferred alternative, environmental review of the project pursuant to the California Environmental Quality Act (CEQA) would be required, and would be initiated at a later date.

DATES: All scoping comments must be postmarked or transmitted not later than July 31, 2012.

Background: Alcatraz Island, the site of pre-Civil War fortifications, was the nation's first military prison. It later became the most notorious maximum security penitentiary in the United States, and subsequently was the site of the occupation that helped ignite the movement for American Indian self-determination. Over 1.4 million people visit Alcatraz Island annually from the existing ferry embarkation site at Pier 31½ in San Francisco, managed by Golden Gate National Recreation Area (GGNRA). The Alcatraz Ferry Embarkation EIS will build upon several studies completed by NPS, the Port, the City, the State of California, and the California Water Emergency Transportation Authority (WETA; formerly the Water Transit Authority).

A 2011 draft feasibility study identified potential sites for consideration located among GGNRA, Fisherman's Wharf, and the northern Embarcadero. The sites studied included Port piers 19½, 29½, 31½, 41, and 45, and GGNRA piers 1, 2, 3, and 4 at Fort Mason. If suggested during scoping, other sites that meet the project purpose and need could also be considered. The draft feasibility study and subsequent investigations also analyzed the surrounding area, identified the programs and facilities needed to operate the sites, existing conditions at the sites, and criteria to evaluate the sites.

SUPPLEMENTARY INFORMATION: The NPS seeks to secure a site on the northern San Francisco waterfront that provides for a long-term (50 years or more) orientation and ferry embarkation facility for visitors to Alcatraz Island. NPS desires an identifiable, adequate, and quality visitor welcome and support area that begins to connect visitors to Alcatraz history, GGNRA, and the national park system. The NPS also seeks to establish ferry connections between the embarkation site and existing piers at Sausalito and/or at Fort Baker, which is managed by GGNRA.

The need for the project is driven by the following factors:

- Alcatraz ferry service is currently subject to location changes every 10 years which has led to visitor confusion, community concerns, and inconsistency in visitor support services.
- Ability to make improvements at the existing site is constrained by lease provisions between the Port and the concessioner, with substantial amounts of revenue spent on rent, reducing the amount available to invest on Alcatraz and other GGNRA sites.
- The condition of existing facilities constrains and negatively affects NPS and the concessioners' abilities to create a recognizable identity and quality visitor experience.
- The current facility has insufficient space to appropriately orient visitors to Alcatraz or provide information to the many visitors who are unable to visit Alcatraz.
- There is very limited opportunity to provide cross-bay ferry service to other GGNRA areas.

The objectives for this project include creating a ferry embarkation site that:

- Establishes a long-term (50 years or more) primary location for visitor access to Alcatraz Island.
- Is economically feasible and sustainable, and generates revenue for investment on Alcatraz and other park facilities and visitor programs.
- Accommodates critical visitor and operational programs and facilities, and provides for efficient land and vessel operations.
- Provides an identifiable area for quality welcome, orientation, and interpretation of the natural, cultural, scenic and recreational resources of Alcatraz, the larger GGNRA, and the national park system.
- Provides facilities for cross-bay ferry service to accommodate existing and future visitor demand for travel to Alcatraz Island, Muir Woods, and the Marin Headlands.

Public Scoping Comments and Further Information: This notice serves to formally open the agency and public scoping comment phase for this EIS. Key impact topics which are expected to be addressed in the EIS include transportation, visitor experience, aesthetics, economics, cultural resources, natural resources, and air quality—however, agencies, members of the public, and interested organizations are encouraged to provide any comments on the spectrum of issues and concerns that should be addressed. Respondents will also assist with defining a suitable range of alternatives; advise on the nature and extent of potential environmental impacts, including natural, cultural, socioeconomic and other topics; and suggest possible mitigation strategies that would reduce potential impacts from project development.

Several public scoping meetings will be scheduled in San Francisco and Marin Counties. Meeting dates, times, and locations will be publicized through local and regional news media, by email to the park mailing list (to be included on the EIS email list, please visit: *www.nps.gov/goga* and click the ''Join the Mailing List'' link), and via the project Web site *http://parkplanning.nps.gov/ALCAembarkation*. This Web site will also provide relevant information, including the project description, planning process updates, meeting notices, reports and documents, and useful links associated with the project. You may also contact the

GGNRA Planning Division at *goga_planning@nps.gov* or (415) 561–4700 for further information.

ADDRESSES: Written comments should be mailed to the following address: Superintendent, Golden Gate National Recreation Area, Attn: Alcatraz Ferry Embarkation EIS, Fort Mason, Bldg. 201, San Francisco, CA 94123. Before including your address, phone number, email 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.

Decision Process: At this time, it is anticipated that the Draft EIS will be available for public review in mid-2013. Availability of the document for review will be announced by the publication of a Notice of Availability in the **Federal Register**, through local and regional news media, via the project Web site, and by email to project email recipients. Additional public meetings will be held after the Draft EIS is distributed to provide further opportunities to comment on the proposed project. Following due consideration of all comments received on the Draft EIS, preparation of the Final EIS is anticipated to be completed in 2014. As a delegated EIS, the official responsible for the final decision regarding the proposed ferry embarkation site is the NPS Regional Director, Pacific West Region. Subsequently, the official responsible for implementation will be the GGNRA Superintendent.

Dated: April 6, 2012.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 2012–13398 Filed 5–31–12; 8:45 am]

BILLING CODE 4312–FN–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWRO–KALA–0509–10302; 8896–SZM]

Notice of June 14, 2012, Meeting for Kalaupapa Federal Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: This notice sets the date of June 14, 2012, meeting of the Kalaupapa Federal Advisory Commission.

DATES: The public meeting of the Kalaupapa Federal Advisory Commission will be held on Thursday, June 14, 2012, at 9:00 a.m. (Hawaii Standard Time).

Location: The meeting will be held at Paschoal Hall, Kalaupapa National Historical Park, Kalaupapa, Hawaii 96742.

Agenda

The June 14, 2012, Commission meeting will consist of the following:

1. Approval of Agenda
2. Approval of January 23, 2012 Minutes
3. Superintendents' Report
4. Phase II—Vegetation Clearing Project
5. GMP Update
6. Memorial Update
7. Public Comments

FOR FURTHER INFORMATION CONTACT: Further information concerning this meeting may be obtained from the Superintendent, Kalaupapa National Historical Park, P.O. Box 2222, Kalaupapa, Hawaii 96742, telephone (808) 567–6802 x 1100.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting. Before including your address, phone number, email 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: May 3, 2012.

Stephen Prokop,

Superintendent, Kalaupapa National Historical Park.

[FR Doc. 2012–13240 Filed 5–31–12; 8:45 am]

BILLING CODE 4132–GJ–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–895 (Second Review)]

Pure Magnesium (Granular) From China; Scheduling of an Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on pure magnesium (granular) from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* May 7, 2012.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On May 7, 2012, the Commission determined that the domestic interested party group response to its notice of institution (77 FR 5049, February 1, 2012) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.[2]

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on August 10, 2012, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] Commissioner Dean A. Pinkert did not participate in this review.

thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[3] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before August 15, 2012 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by August 15, 2012. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (October 6, 2011) and the newly revised Commission's Handbook on E–Filing, available on the Commission's web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: May 25, 2012.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–13250 Filed 5–31–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–894 (Second Review)]

Ammonium Nitrate from Ukraine Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on ammonium nitrate from Ukraine would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is July 2, 2012. Comments on the adequacy of responses may be filed with the Commission by August 14, 2012. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On September 12, 2001, the Department of Commerce issued an antidumping duty order on imports of ammonium nitrate from Ukraine (66 FR 47451). Following the five-year reviews by Commerce and the Commission, effective July 9, 2007, Commerce issued a continuation of the antidumping duty order on imports of ammonium nitrate from Ukraine (72 FR 37195). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Ukraine.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, the Commission defined the *Domestic Like Product* coextensively with the scope of subject merchandise as fertilizer grade ammonium nitrate products with a bulk density equal to or greater than 53 pounds per cubic foot. In its first full five-year review determination, the Commission defined the *Domestic Like Product* as consisting of all ammonium nitrate, corresponding to Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its first full five-year review, the Commission defined the *Domestic*

[3] The Commission has found the responses submitted by US Magnesium LLC to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 12–5–270, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Industry as all domestic producers of the subject ammonium nitrate.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list. Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 2, 2012. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is August 14, 2012. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E–Filing, available on the Commission's Web site at http://edis.usitc.gov. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the

United States or other countries after 2006.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2011, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) The value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2011 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2011 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2006, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: May 23, 2012.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–13076 Filed 5–31–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0085]

Agency Information Collection Activities: Collection; Comments Requested; Application for Approval as a Provider of a Personal Financial Management Instructional Course

ACTION: 60-Day notice of application under review.

The Department of Justice, Executive Office for United States Trustees, will be submitting the following application to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The application is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until July 31, 2012.

All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the application with instructions, should be directed to Wendy Tien, Deputy Assistant Director, at the Executive Office for United States Trustees, Department of Justice, 20 Massachusetts Avenue NW., Suite 8000, Washington, DC 20530, or by facsimile at (202) 305–8536.

Written comments and suggestions from the public and affected agencies concerning the collection of information are encouraged. Comments should address one or more of the following four points:

1. Evaluate whether the application is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of 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 the Information

Type of information collection	Application form.
The title of the form/collection	Application for Approval as a Provider of a Personal Financial Management Instructional Course.
The agency form number, if any, and the applicable component of the department sponsoring the collection.	No form number.
	Executive Office for United States Trustees, Department of Justice.
Affected public who will be asked or required to respond, as well as a brief abstract.	Primary: Individuals who wish to offer instructional courses to student debtors concerning personal financial management.
	Other: None.
	Congress passed a bankruptcy law that requires individuals who file for bankruptcy to complete an approved personal financial management instructional course as a condition of receiving a discharge.
An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply.	It is estimated that 300 respondents will complete the application in approximately ten (10) hours.
An estimate of the total public burden (in hours) associated with the collection.	The estimated total annual public burden associated with this application is 3,000 hours.

If additional information is required, contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 2E–508, Washington, DC 20530.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2012–13289 Filed 5–31–12; 8:45 am]

BILLING CODE 4410–40–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Exemptions From Certain Prohibited Transaction Restrictions

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) 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). This notice includes the following: D–11579, Delaware Charter Guarantee & Trust Co. d\b\a Principal Trust Company (Principal Trust), 2012–11; D–11677, Weyerhaeuser Company (Weyerhaeuser) and Federalway Asset Management LP (collectively, the Applicants), 2012–12; and D–11679, Sammons Enterprises, Inc. Employee Stock Ownership ESOP (the ESOP), 2012–13.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, 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 proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (76 FR 66637, 66644, October 27, 2011) [1] and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

[1] The Department has considered exemption applications received prior to December 27, 2011 under the exemption procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Delaware Charter Guarantee & Trust Co. d\b\a Principal Trust Company (Principal Trust); Principal Life Insurance Company (Principal Life) and Any Affiliates, Thereof (collectively, Principal or the Applicants) Located in Wilmington, Delaware and in Des Moines, Iowa

[Prohibited Transaction 2012–11; Exemption Application No. D–11579]

Exemption

Section I—Transactions

The restrictions of sections 406(a)(1)(D) and 406(b) of the Act and the taxes resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(D) through (F) of the Internal Revenue Code (the Code),[2] shall not apply, as of the effective date of this exemption, to:

(a) The receipt of a fee by Principal, as Principal is defined, below, in Section IV(a), from an open-end investment company or open-end investment companies (Affiliated Fund(s)), as defined, below, in Section IV(e), in connection with the direct investment in shares of any such Affiliated Fund, by an employee benefit plan or by employee benefit plans (Client Plan(s)), as defined, below, in Section IV(b), where Principal serves as a fiduciary with respect to such Client Plan, and where Principal:

(1) Provides investment advisory services, or similar services to any such Affiliated Fund; and

(2) Provides to any such Affiliated Fund other services (Secondary Service(s)), as defined, below, in Section IV(i); and

(b) In connection with the indirect investment by a Client Plan in shares of an Affiliated Fund through investment in a pooled investment vehicle or pooled investment vehicles (Collective Fund(s)),[3] as defined, below, in Section IV(j), where Principal serves as a fiduciary with respect to such Client Plan, the receipt of fees by Principal from:

(1) An Affiliated Fund for the provision of investment advisory services, or similar services by Principal to any such Affiliated Fund; and

(2) An Affiliated Fund for the provision of Secondary Services by Principal to any such Affiliated Fund; provided that the conditions, as set forth, below, in Section II and Section III, are satisfied, as of the effective date of this exemption and thereafter.

Section II—Specific Conditions

The relief provided in this exemption is conditioned upon adherence to the material facts and representations described, herein, and as set forth in the application file and upon compliance with the conditions, as set forth in this exemption.

(a)(1) Each Client Plan which is invested directly in shares of an Affiliated Fund either:

(i) Does not pay to Principal for the entire period of such investment any investment management fee, or any investment advisory fee, or any similar fee at the plan-level (the Plan-Level Management Fee), as defined, below, in Section IV(m), with respect to any of the assets of such Client Plan which are invested directly in shares of such Affiliated Fund; or

(ii) Pays to Principal a Plan-Level Management Fee, based on total assets of such Client Plan under management by Principal at the plan-level, from which a credit has been subtracted from such Plan-Level Management Fee, where the amount subtracted represents such Client Plan's *pro rata* share of any investment advisory fee and any similar fee (the Affiliated Fund-Level Advisory Fee), as defined, below, in Section IV(o), paid by such Affiliated Fund to Principal.

If, during any fee period, in the case of a Client Plan invested directly in shares of an Affiliated Fund, such Client Plan has prepaid its Plan-Level Management Fee, and such Client Plan purchases shares of an Affiliated Fund directly, the requirement of this Section II(a)(1)(ii) shall be deemed met with respect to such prepaid Plan-Level Management Fee, if, by a method reasonably designed to accomplish the same, the amount of the prepaid Plan-Level Management Fee that constitutes the fee with respect to the assets of such Client Plan invested directly in shares of an Affiliated Fund:

(A) Is anticipated and subtracted from the prepaid Plan-Level Management Fee at the time of the payment of such fee; or

(B) Is returned to such Client Plan, no later than during the immediately following fee period; or

(C) Is offset against the Plan-Level Management Fee for the immediately following fee period or for the fee period immediately following thereafter.

For purposes of Section II(a)(1)(ii), a Plan-Level Management Fee shall be deemed to be prepaid for any fee period, if the amount of such Plan-Level Management Fee is calculated as of a date not later than the first day of such period.

(2) Each Client Plan invested in a Collective Fund the assets of which are not invested in shares of an Affiliated Fund:

(i) Does not pay to Principal for the entire period of such investment any Plan-Level Management Fee with respect to any assets of such Client Plan invested in such Collective Fund.

The requirements of this Section II(a)(2)(i) do not preclude the payment of a Collective Fund-Level Management Fee by such Collective Fund to Principal, based on the assets of such Client Plan invested in such Collective Fund; or

(ii) Does not pay directly to Principal or indirectly to Principal through the Collective Fund for the entire period of such investment any Collective Fund-Level Management Fee with respect to any assets of such Client Plan invested in such Collective Fund.

The requirements of this Section II(a)(2)(ii) do not preclude the payment of a Plan-Level Management Fee by such Client Plan to Principal, based on total assets of such Client Plan under management by Principal at the plan-level; or

(iii) Such Client Plan pays to Principal a Plan-Level Management Fee, based on total assets of such Client Plan under management by Principal at the plan-level, from which a credit has been subtracted from such Plan-Level Management Fee (the ''Net'' Plan-Level Management Fee), where the amount subtracted represents such Client Plan's *pro rata* share of any Collective Fund-Level Management Fee paid by such Collective Fund to Principal.

The requirements of this Section II(a)(2)(iii) do not preclude the payment of a Collective Fund-Level Management Fee by such Collective Fund to Principal, based on the assets of such Client Plan invested in such Collective Fund.

(3) Each Client Plan invested in a Collective Fund the assets of which are invested in shares of an Affiliated Fund:

(i) Does not pay to Principal for the entire period of such investment any Plan-Level Management Fee (including

[2] For purposes of this exemption reference to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[3] The Department, herein, is expressing no opinion in this exemption regarding the reliance of the Applicants on the relief provided by section 408(b)(8) of the Act with regard to the purchase and with regard to the sale by a Client Plan of an interest in a Collective Fund and the receipt by Principal, thereby, of any investment management fee, any investment advisory fee, and any similar fee (a Collective Fund-Level Management Fee), as defined, below, in Section IV(n), where Principal serves as an investment manager or investment adviser with respect to such Collective Fund and also serves as a fiduciary with respect to such Client Plan, nor is the Department offering any view as to whether the Applicants satisfy the conditions, as set forth in section 408(b)(8) of the Act.

any ''Net'' Plan-Level Management Fee, as described, above, in Section II(a)(2)(iii)), and does not pay directly to Principal or indirectly to Principal through the Collective Fund for the entire period of such investment any Collective Fund-Level Management Fee with respect to the assets of such Client Plan which are invested in such Affiliated Fund; or

(ii) Pays indirectly to Principal through the Collective Fund a Collective Fund-Level Management Fee, in accordance with Section II(a)(2)(i), above, based on the total assets of such Client Plan invested in such Collective Fund, from which a credit has been subtracted from such Collective Fund-Level Management Fee, where the amount subtracted represents such Client Plan's *pro rata* share of any Affiliated Fund-Level Advisory Fee paid to Principal by such Affiliated Fund; and does not pay to Principal for the entire period of such investment any Plan-Level Management Fee with respect to any assets of such Client Plan invested in such Collective Fund; or

(iii) Pays to Principal a Plan-Level Management Fee, in accordance with Section II(a)(2)(iii), above, based on the total assets of such Client Plan under management by Principal at the plan-level, from which a credit has been subtracted from such Plan-Level Management Fee, where the amount subtracted represents such Client Plan's *pro rata* share of any Affiliated Fund-Level Advisory Fee paid to Principal by such Affiliated Fund; and does not pay directly to Principal or indirectly to Principal through the Collective Fund for the entire period of such investment any Collective Fund-Level Management Fee with respect to any assets of such Client Plan invested in such Collective Fund; or

(iv) Pays to Principal a ''Net'' Plan-Level Management Fee, in accordance with Section II(a)(2)(iii), above, from which a further credit has been subtracted from such ''Net'' Plan-Level Management Fee, where the amount of such further credit which is subtracted represents such Client Plan's *pro rata* share of any Affiliated Fund-Level Advisory Fee paid to Principal by such Affiliated Fund.

Provided that the conditions of this exemption are satisfied, the requirements of Section II(a)(1)(i)–(ii), and Section II(a)(3)(i)–(iv) do not preclude the payment of an Affiliated Fund-Level Advisory Fee by an Affiliated Fund to Principal under the terms of an investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940 (the Investment Company Act). Further, the requirements of Section II(a)(1)(i)–(ii), and Section II(a)(3)(i)–(iv) do not preclude the payment of a fee by an Affiliated Fund to Principal for the provision by Principal of Secondary Services to such Affiliated Fund under the terms of a duly adopted agreement between Principal and such Affiliated Fund.

For the purpose of Section II(a)(1)(ii), and Section II(a)(3)(ii)–(iv), in calculating a Client Plan's *pro rata* share of an Affiliated Fund-Level Advisory Fee, Principal must use an amount representing the ''gross'' advisory fee paid to Principal by such Affiliated Fund. For purposes of this paragraph, the ''gross'' advisory fee is the amount paid to Principal by such Affiliated Fund, including the amount paid by such Affiliated Fund to sub-advisers.

(b) The purchase price paid and the sales price received by a Client Plan for shares in an Affiliated Fund purchased or sold directly, and the purchase price paid and the sales price received by a Client Plan for shares in an Affiliated Fund purchased or sold indirectly through a Collective Fund, is the net asset value per share (NAV), as defined, below, in Section IV(f), at the time of the transaction, and is the same purchase price that would have been paid and the same sales price that would have been received for such shares by any other shareholder of the same class of shares in such Affiliated Fund at that time.[4]

(c) Principal, including any officer and any director of Principal, does not purchase any shares of an Affiliated Fund from and does not sell any shares of an Affiliated Fund to any Client Plan which invests directly in such Affiliated Fund, and Principal, including any officer and director of Principal, does not purchase any shares of any Affiliated Fund from and does not sell any shares of an Affiliated Fund to any Collective Fund in which a Client Plan invests indirectly in shares of such Affiliated Fund.

(d) No sales commissions, no redemption fees, and no other similar fees are paid in connection with any purchase and in connection with any sale by a Client Plan directly in shares of an Affiliated Fund, and no sales commissions, no redemption fees, and no other similar fees are paid by a Collective Fund in connection with any purchase and in connection with any sale of shares in an Affiliated Fund by a Client Plan indirectly through such Collective Fund. However, this Section II(d) does not prohibit the payment of a redemption fee, if:

(1) Such redemption fee is paid only to an Affiliated Fund; and

(2) The existence of such redemption fee is disclosed in the summary prospectus for such Affiliated Fund in effect both at the time of any purchase of shares in such Affiliated Fund and at the time of any sale of such shares.

(e) The combined total of all fees received by Principal is not in excess of reasonable compensation within the meaning of section 408(b)(2) of the Act, for services provided:

(1) By Principal to each Client Plan;

(2) By Principal to each Collective Fund in which a Client Plan invests;

(3) By Principal to each Affiliated Fund in which a Client Plan invests directly in shares of such Affiliated Fund; and

(4) By Principal to each Affiliated Fund in which a Client Plan invests indirectly in shares of such Affiliated Fund through a Collective Fund.

(f) Principal does not receive any fees payable pursuant to Rule 12b–1 under the Investment Company Act in connection with the transactions covered by this exemption;

(g) No Client Plan is an employee benefit plan sponsored or maintained by Principal.

(h)(1) In the case of a Client Plan investing directly in shares of an Affiliated Fund, a second fiduciary (the Second Fiduciary), as defined, below, in Section IV(h), acting on behalf of such Client Plan, receives, in writing, in advance of any investment by such Client Plan directly in shares of such Affiliated Fund, a full and detailed disclosure via first class mail or via personal delivery of (or, if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q), as set forth, below) of information concerning such Affiliated Fund, including but not limited to the items listed, below:

(i) A current summary prospectus issued by each such Affiliated Fund;

(ii) A statement describing the fees, including the nature and extent of any differential between the rates of such fees for:

(A) Investment advisory and similar services to be paid to Principal by each Affiliated Fund;

(B) Secondary Services to be paid to Principal by each such Affiliated Fund; and

[4] The selection of a particular class of shares of an Affiliated Fund as an investment for a Client Plan indirectly through a Collective Fund is a fiduciary decision that must be made in accordance with the provisions of section 404(a) of the Act. In this exemption, the Department is not providing any relief for any fiduciary violations, pursuant to section 404 of the Act, or violations of the prohibited transaction provisions, as set forth in section 406 of the Act that may arise from the selection of one class of shares of an Affiliated Fund over another class of shares.

(C) All other fees to be charged by Principal to such Client Plan and to each such Affiliated Fund and all other fees to be paid to Principal by each such Client Plan and by each such Affiliated Fund;

(iii) The reasons why Principal may consider investment directly in shares of such Affiliated Fund by such Client Plan to be appropriate for such Client Plan;

(iv) A statement describing whether there are any limitations applicable to Principal with respect to which assets of such Client Plan may be invested directly in shares of such Affiliated Fund, and if so, the nature of such limitations; and

(v) Upon the request of the Second Fiduciary acting on behalf of such Client Plan, a copy of the Notice of Proposed Exemption (the Notice), a copy of the final exemption, if granted, and any other reasonably available information regarding the transactions which are the subject of this exemption.

(2) In the case of a Client Plan whose assets are proposed to be invested in a Collective Fund after such Collective Fund has begun investing in shares of an Affiliated Fund, a Second Fiduciary, acting on behalf of such Client Plan, receives, in writing, in advance of any investment by such Client Plan in such Collective Fund, a full and detailed disclosure via first class mail or via personal delivery (or, if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q), as set forth, below) of information concerning such Collective Fund and information concerning each such Affiliated Fund in which such Collective Fund is invested, including but not limited to the items listed, below:

(i) A current summary prospectus issued by each such Affiliated Fund;

(ii) A statement describing the fees, including the nature and extent of any differential between the rates of such fees for:

(A) Investment advisory and similar services to be paid to Principal by each Affiliated Fund;

(B) Secondary Services to be paid to Principal by each such Affiliated Fund; and

(C) All other fees to be charged by Principal to such Client Plan, to such Collective Fund, and to each such Affiliated Fund and all other fees to be paid to Principal by such Client Plan, by such Collective Fund, and by each such Affiliated Fund;

(iii) The reasons why Principal may consider investment by such Client Plan in shares of each such Affiliated Fund indirectly through such Collective Fund to be appropriate for such Client Plan;

(iv) A statement describing whether there are any limitations applicable to Principal with respect to which assets of such Client Plan may be invested indirectly in shares of each such Affiliated Fund through such Collective Fund, and if so, the nature of such limitations;

(v) Upon the request of the Second Fiduciary, acting on behalf of such Client Plan, a copy of the Notice, a copy of the final exemption, if granted, and any other reasonably available information regarding the transactions which are the subject of this exemption; and

(vi) A copy of the organizational documents of such Collective Fund which expressly provide for the addition of one or more Affiliated Funds to the portfolio of such Collective Fund.

(3) In the case of a Client Plan whose assets are proposed to be invested in a Collective Fund before such Collective Fund has begun investing in shares of any Affiliated Fund, a Second Fiduciary, acting on behalf of such Client Plan, receives, in writing, in advance of any investment by such Client Plan in such Collective Fund, a full and detailed disclosure via first class mail or via personal delivery (or, if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q), as set forth, below) of information, concerning such Collective Fund, including but not limited to the items listed, below:

(i) A statement describing the fees, including the nature and extent of any differential between the rates of such fees for all fees to be charged by Principal to such Client Plan and to such Collective Fund and all other fees to be paid to Principal by such Client Plan, and by such Collective Fund;

(ii) Upon the request of the Second Fiduciary, acting on behalf of such Client Plan, a copy of the Notice, a copy of the final exemption, if granted, and any other reasonably available information regarding the transactions which are the subject of this exemption; and

(iii) A copy of the organizational documents of such Collective Fund which expressly provide for the addition of one or more Affiliated Funds to the portfolio of such Collective Fund.

(i) On the basis of the information described, above, in Section II(h), a Second Fiduciary, acting on behalf of a Client Plan:

(1) Authorizes in writing the investment of the assets of such Client Plan, as applicable:

(i) Directly in shares of an Affiliated Fund;

(ii) Indirectly in shares of an Affiliated Fund through a Collective Fund where such Collective Fund has already invested in shares of an Affiliated Fund; and

(iii) In a Collective Fund which is not yet invested in shares of an Affiliated Fund but whose organizational document expressly provides for the addition of one or more Affiliated Funds to the portfolio of such Collective Fund; and

(2) Authorizes in writing, as applicable:

(i) The Affiliated Fund-Level Advisory Fee received by Principal for investment advisory services and similar services provided by Principal to such Affiliated Fund;

(ii) The fee received by Principal for Secondary Services provided by Principal to such Affiliated Fund;

(iii) The Collective Fund-Level Management Fee received by Principal for investment management, investment advisory, and similar services provided by Principal to such Collective Fund in which such Client Plan invests;

(iv) The Plan-Level Management Fee received by Principal for investment management and similar services provided by Principal to such Client Plan at the plan-level; and

(v) The selection by Principal of the applicable fee method, as described, above, in Section II(a)(1)–(3).

All authorizations made by a Second Fiduciary, pursuant to this Section II(i), must be consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act;

(j)(1) Any authorization, described, above, in Section II(i), and any authorization made pursuant to negative consent, as described, below, in Section II(k) and in Section II(l), made by a Second Fiduciary, acting on behalf of a Client Plan, shall be terminable at will by such Second Fiduciary, without penalty to such Client Plan, upon receipt by Principal via first class mail, via personal delivery, or via electronic email of a written notification of the intent of such Second Fiduciary to terminate any such authorization.

(2) A form (the Termination Form) expressly providing an election to terminate any authorization, described, above, in Section II(i), or to terminate any authorization made pursuant to negative consent, as described, below, in Section II(k) and in Section II(l), with instructions on the use of such Termination Form must be provided to such Second Fiduciary at least annually, either in writing via first class mail or

via personal delivery (or if such Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q), as set forth, below). However, if a Termination Form has been provided to such Second Fiduciary, pursuant to Section II(k) or pursuant to Section II(l), below, then a Termination Form need not be provided again, pursuant to this Section II(j), until at least six (6) months but no more than twelve (12) months have elapsed, since a Termination Form was provided;

(3) The instructions for the Termination Form must include the following statements:

(i) Any authorization, described, above, in Section II(i), and any authorization made pursuant to negative consent, as described, below, in Section II(k) or in Section II(l), is terminable at will by a Second Fiduciary, acting on behalf of a Client Plan, without penalty to such Client Plan, upon receipt by Principal via first class mail or via personal delivery or via electronic email of the Termination Form, or some other written notification of the intent of such Second Fiduciary to terminate such authorization;

(ii) Within 30 days from the date the Termination Form is sent to such Second Fiduciary by Principal, the failure by such Second Fiduciary to return such Termination Form or the failure by such Second Fiduciary to provide some other written notification of the Client Plan's intent to terminate any authorization, described in Section II(i), or intent to terminate any authorization made pursuant to negative consent, as described, below, in Section II(k) or in Section II(l), will be deemed to be an approval by such Second Fiduciary;

(4) In the event that a Second Fiduciary, acting on behalf of a Client Plan, at any time returns a Termination Form or returns some other written notification of intent to terminate any authorization, as described, above, in Section II(i), or intent to terminate any authorization made pursuant to negative consent, as described, below, in Section II(k) or in Section II(l);

(i)(A) In the case of a Client Plan which invests directly in shares of an Affiliated Fund, the termination will be implemented by the withdrawal of all investments made by such Client Plan in the affected Affiliated Fund, and such withdrawal will be effected by Principal within one (1) business day of the date that Principal receives such Termination Form or receives from the Second Fiduciary, acting on behalf of such Client Plan, some other written notification of intent to terminate any such authorization;

(B) From the date a Second Fiduciary, acting on behalf of a Client Plan that invests directly in shares of an Affiliated Fund, returns a Termination Form or returns some other written notification of intent to terminate such Client Plan's investment in such Affiliated Fund, such Client Plan will not be subject to pay a *pro rata* share of any Affiliated Fund-Level Advisory Fee and will not be subject to pay any fees for Secondary Services paid to Principal by such Affiliated Fund;

(ii)(A) In the case of a Client Plan which invests in a Collective Fund, the termination will be implemented by the withdrawal of such Client Plan from all investments in such affected Collective Fund, and such withdrawal will be implemented by Principal within such time as may be necessary for withdrawal in an orderly manner that is equitable to the affected withdrawing Client Plan and to all non-withdrawing Client Plans, but in no event shall such withdrawal be implemented by Principal more than five (5) business days after the day Principal receives from the Second Fiduciary, acting on behalf of such withdrawing Client Plan, a Termination Form or receives some other written notification of intent to terminate the investment of such Client Plan in such Collective Fund, unless such withdrawal is otherwise prohibited by a governmental entity with jurisdiction over the Collective Fund, or the Second Fiduciary fails to instruct Principal as to where to reinvest or send the withdrawal proceeds; and

(B) From the date Principal receives from a Second Fiduciary, acting on behalf of a Client Plan, that invests in a Collective Fund, a Termination Form or receives some other written notification of intent to terminate such Client Plan's investment in such Collective Fund, such Client Plan will not be subject to pay a *pro rata* share of any fees arising from the investment by such Client Plan in such Collective Fund, including any Collective Fund-Level Management Fee, nor will such Client Plan be subject to any other charges to the portfolio of such Collective Fund, including a *pro rata* share of any Affiliated Fund-Level Advisory Fee and any fee for Secondary Services arising from the investment by such Collective Fund in an Affiliated Fund.

(k)(1) Principal, at least thirty (30) days in advance of the implementation of each fee increase (Fee Increase(s)), as defined, below, in Section IV(l), must provide, in writing via first class mail or via personal delivery (or if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q), as set forth, below), a notice of change in fees (the Notice of Change in Fees) (which may take the form of a proxy statement, letter, or similar communication which is separate from the summary prospectus of such Affiliated Fund) and which explains the nature and the amount of such Fee Increase to the Second Fiduciary of each affected Client Plan. Such Notice of Change in Fees shall be accompanied by a Termination Form and by instructions on the use of such Termination Form, as described, above, in Section II(j)(3);

(2) For each Client Plan affected by a Fee Increase, Principal may implement such Fee Increase without waiting for the expiration of the 30-day period, described, above, in Section II(k)(1), provided Principal does not begin implementation of such Fee Increase before the first day of the 30-day period, described, above in Section II(k)(1), and provided further that the following conditions are satisfied:

(i) Principal delivers, in the manner described in Section II(k)(1), to the Second Fiduciary for each affected Client Plan, the Notice of Change of Fees, as described in Section II(k)(1), accompanied by the Termination Form and by instructions on the use of such Termination Form, as described, above, in Section II(j)(3);

(ii) Each affected Client Plan receives from Principal a credit in cash equal to each such Client Plan's *pro rata* share of such Fee Increase to be received by Principal for the period from the date of the implementation of such Fee Increase to the earlier of:

(A) The date when an affected Client Plan, pursuant to Section II(j), terminates any authorization, as described, above, in Section II(i), or, terminates any negative consent authorization, as described, in Section II(k) or in Section II(l); or

(B) The 30th day after the day that Principal delivers to the Second Fiduciary of each affected Client Plan the Notice of Change of Fees, described in Section II(k)(1), accompanied by the Termination Form and by the instructions on the use of such Termination Form, as described, above, in Section II(j)(3).

(iii) Principal pays to each affected Client Plan the cash credit, described, above, in Section II(k)(2)(ii), with interest thereon, no later than five (5) business days following the earlier of:

(A) The date such affected Client Plan, pursuant to Section II(j), terminates any authorization, as described, above, in Section II(i), or terminates, any negative consent

authorization, as described, in Section II(k) or in Section II(l); or

(B) The 30th day after the day that Principal delivers to the Second Fiduciary of each affected Client Plan, the Notice of Change of Fees, described in Section II(k)(1), accompanied by the Termination Form and instructions on the use of such Termination Form, as described, above, in Section II(j)(3);

(iv) Interest on the credit in cash is calculated at the prevailing Federal funds rate plus two percent (2%) for the period from the day Principal first implements the Fee Increase to the date Principal pays such credit in cash, with interest thereon, to each affected Client Plan;

(v) An independent accounting firm (the Auditor) at least annually audits the payments made by Principal to each affected Client Plan, audits the amount of each cash credit, plus the interest thereon, paid to each affected Client Plan, and verifies that each affected Client Plan received the correct amount of cash credit and the correct amount of interest thereon;

(vi) Such Auditor issues an audit report of its findings no later than six (6) months after the period to which such audit report relates, and provides a copy of such audit report to the Second Fiduciary of each affected Client Plan; and

(3) Within 30 days from the date Principal sends to the Second Fiduciary of each affected Client Plan, the Notice of Change of Fees and the Termination Form, the failure by such Second Fiduciary to return such Termination Form and the failure by such Second Fiduciary to provide some other written notification of the Client Plan's intent to terminate the authorization, described in Section II(i), or to terminate the negative consent authorization, as described, in Section II(k) or in Section II(l), will be deemed to be an approval by such Second Fiduciary of such Fee Increase.

(l) Effective on the date the final exemption is granted, in the case of a Client Plan which has received the disclosures, as set forth, above, in Section II(h)(2)(i), II(h)(2)(ii)(A), II(h)(2)(ii)(B), II(h)(2)(ii)(C), II(h)(2)(iii), II(h)(2)(iv), II(h)(2)(v), and II(h)(2)(vi), and has authorized the investment by a Client Plan in a Collective Fund, in accordance with Section II(i)(1)(ii), above; and, as applicable, effective on the date the final exemption is granted, in the case of a Client Plan which has received the disclosures, as set forth, above, in Section II(h)(3)(i), II(h)(3)(ii), and II(h)(3)(iii), and has authorized the investment by a Client Plan in a Collective Fund, in accordance with Section II(i)(1)(iii), above, then, the authorization, pursuant to negative consent, in accordance with this Section II(l), applies to:

(1) The purchase, as an addition to the portfolio of such Collective Fund, of shares of an Affiliated Fund (a New Affiliated Fund) where such New Affiliated Fund has not been previously authorized, pursuant to Section II(i)(1)(ii) or, as applicable, Section II(i)(1)(iii), above, and such Collective Fund may commence investing in such New Affiliated Fund without further written authorization from the Second Fiduciary of each Client Plan invested in such Collective Fund provided that:

(i) The organizational documents of such Collective Fund expressly provide for the addition of one or more Affiliated Funds to the portfolio of such Collective Fund, and such documents were disclosed in writing via first class mail or via personal delivery (or, if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q), as set forth, below) to the Second Fiduciary of each such Client Plan invested in such Collective Fund, in advance of any investment by such Client Plan in such Collective Fund;

(ii) At least thirty (30) days in advance of the purchase by a Client Plan of shares of such New Affiliated Fund indirectly through a Collective Fund, Principal provides, either in writing via first class or via personal delivery (or if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q), as set forth, below), to the Second Fiduciary of each Client Plan having an interest in such Collective Fund, full and detailed disclosures about such New Affiliated Fund, including but not limited to:

(A) A notice of Principal's intent to add a New Affiliated Fund to the portfolio of such Collective Fund. Such notice may take the form of a proxy statement, letter, or similar communication that is separate from the summary prospectus of such New Affiliated Fund to the Second Fiduciary of each affected Client Plan;

(B) Such notice of Principal's intent to add a New Affiliated Fund to the portfolio of such Collective Fund shall be accompanied by the information, as described, above, in Section II(h)(2)(i), II(h)(2)(ii)(A), II(h)(2)(ii)(B), II(h)(2)(ii)(C), II(h)(2)(iii), II(h)(2)(iv), and II(2)(v) with respect to each such New Affiliated Fund to be added to the portfolio of such Collective Fund; and

(C) A Termination Form, and instructions on the use of such Termination Form, as described, above, in Section II(j)(3); and

(2) Within 30 days from the date Principal sends to the Second Fiduciary of each affected Client Plan, the information described, above, in Section II(l)(1)(ii), the failure by such Second Fiduciary to return the Termination Form or to provide some other written notification of the Client Plan's intent to terminate the authorization, described in Section II(i)(1)(ii), or, as appropriate, to terminate the authorization, described in Section II(i)(1)(iii), or to terminate any authorization, pursuant to negative consent, as described, in this Section II(l), will be deemed to be an approval by such Second Fiduciary of the addition of a New Affiliated Fund to the portfolio of such Collective Fund in which such Client Plan invests, and will result in the continuation of the authorization of Principal to engage in the transactions which are the subject of this exemption with respect to such New Affiliated Fund.

(m) Principal is subject to the requirement to provide within a reasonable period of time any reasonably available information regarding the covered transactions that the Second Fiduciary of such Client Plan requests Principal to provide.

(n) All dealings between a Client Plan and an Affiliated Fund, including all such dealings when such Client Plan is invested directly in shares of such Affiliated Fund and when such Client Plan is invested indirectly in such shares of such Affiliated Fund through a Collective Fund, are on a basis no less favorable to such Client Plan, than dealings between such Affiliated Fund and other shareholders of the same class of shares in such Affiliated Fund.

(o) In the event a Client Plan invests directly in shares of an Affiliated Fund, and, as applicable, in the event a Client Plan invests indirectly in shares of an Affiliated Fund through a Collective Fund, if such Affiliated Fund places brokerage transactions with Principal, Principal will provide to the Second Fiduciary of each such Client Plan, so invested, at least annually a statement specifying:

(1) The total, expressed in dollars of brokerage commissions that are paid to Principal by each such Affiliated Fund;

(2) The total, expressed in dollars, of brokerage commissions that are paid by each such Affiliated Fund to brokerage firms unrelated to Principal;

(3) The average brokerage commissions per share, expressed as cents per share, paid to Principal by each such Affiliated Fund; and

(4) The average brokerage commissions per share, expressed as

cents per share, paid by each such Affiliated Fund to brokerage firms unrelated to Principal.

(p)(1) Principal provides to the Second Fiduciary of each Client Plan invested directly in shares of an Affiliated Fund, with the disclosures, as set forth, below, and at the times set forth below, in Section II(p)(1)(i), II(p)(1)(ii), II(p)(1)(iii), II(p)(1)(iv), and II(p)(1)(v), either in writing via first class mail or via personal delivery (or if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q), as set forth, below);

(i) Annually, with a copy of the current summary prospectus for each Affiliated Fund in which such Client Plan invests directly in shares of such Affiliated Fund;

(ii) Upon the request of such Second Fiduciary, a copy of the statement of additional information for each Affiliated Fund in which such Client Plan invests directly in shares of such Affiliated Fund which contains a description of all fees paid by such Affiliated Fund to Principal;

(iii) With regard to any Fee Increase received by Principal, pursuant to Section II(k)(2), above, a copy of the audit report referred to in Section II(k)(2)(v), above, within sixty (60) days of the completion of such audit report;

(iv) Oral or written responses to the inquiries posed by the Second Fiduciary of such Client Plan, as such inquiries arise; and

(v) Annually, with a Termination form, as described in Section II(j)(1), and instructions on the use of such form, as described in Section II(j)(3), except that if a Termination Form has been provided to such Second Fiduciary, pursuant to Section II(k) or pursuant to Section II(l), above, then a Termination Form need not be provided again, pursuant to this Section II(p)(1)(v), until at least six (6) months but no more than twelve (12) months have elapsed, since a Termination Form was provided.

(2) Principal provides to the Second Fiduciary of each Client Plan invested in a Collective Fund, with the disclosures, as set forth, below, and at the times set forth below, in Section II(p)(2)(i), II(p)(2)(ii), II(p)(2)(iii), II(p)(2)(iv), II(p)(2)(v), II(p)(2)(vi), II(p)(2)(vii), and II(p)(2)(viii), either in writing via first class mail or via personal delivery (or if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q), as set forth, below);

(i) Annually, with a copy of the current summary prospectus for each Affiliated Fund in which such Client Plan invests indirectly in shares of such Affiliated Fund thorough each such Collective Fund;

(ii) Upon the request of such Second Fiduciary, a copy of the statement of additional information for each Affiliated Fund in which such Client Plan invests indirectly in shares of such Affiliated Fund thorough each such Collective Fund which contains a description of all fees paid by such Affiliated Fund to Principal;

(iii) Annually, with a statement of the Collective Fund-Level Management Fee for investment management, investment advisory or similar services paid to Principal by each such Collective Fund, regardless of whether such Client Plan invests in shares of an Affiliated Fund through such Collective Fund;

(iv) A copy of the annual financial statement of each such Collective Fund in which such Client Plan invests, regardless of whether such Client Plan invests in shares of an Affiliated Fund through such Collective Fund, within sixty (60) days of the completion of such financial statement;

(v) With regard to any Fee Increase received by Principal, pursuant to Section II(k)(2), above, a copy of the audit report referred to in Section II(k)(2)(v), above, within sixty (60) days of the completion of such audit report;

(vi) Oral or written responses to the inquiries posed by the Second Fiduciary of such Client Plan, as such inquiries arise;

(vii) For each Client Plan invested indirectly in shares of an Affiliated Fund through a Collective Fund, a statement of the approximate percentage (which may be in the form of a range) on an annual basis of the assets of such Collective Fund that was invested in Affiliated Funds during the applicable year; and

(viii) Annually, with a Termination Form, as described in Section II(j)(1), and instructions on the use of such form, as described in Section II(j)(3), except that if a Termination Form has been provided to such Second Fiduciary, pursuant to Section II(k) or pursuant to Section II(l), above, then a Termination Form need not be provided again, pursuant to this Section II(p)(2)(viii), until at least six (6) months but no more than twelve (12) months have elapsed, since a Termination Form was provided.

(q) Any disclosure required, herein, to be made by Principal to a Second Fiduciary may be delivered by electronic email containing direct hyperlinks to the location of each such document required to be disclosed, which are maintained on a Web site by Principal, provided:

(1) Principal obtains from such Second Fiduciary prior consent in writing to the receipt by such Second Fiduciary of such disclosure via electronic email;

(2) Such Second Fiduciary has provided to Principal a valid email address; and

(3) The delivery of such electronic email to such Second Fiduciary is provided by Principal in a manner consistent with the relevant provisions of the regulations of the Department of Labor (the Department) at 29 CFR section 2520.104b–1(c) (substituting the word, ''Principal,'' for the word, ''administrator,'' as set forth therein, and substituting the phrase, ''Second Fiduciary,'' for the phrase, ''the participant, beneficiary or other individual,'' as set forth therein).

Section III—General Conditions

(a) Principal maintains for a period of six (6) years the records necessary to enable the persons described, below, in Section III(b) to determine whether the conditions of this exemption have been met, except that:

(1) A prohibited transaction will not be considered to have occurred, if solely because of circumstances beyond the control of Principal, the records are lost or destroyed prior to the end of the six-year period; and

(2) No party in interest other than Principal shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained or are not available for examination as required by Section III(b); below.

(b)(1) Except as provided in Section III(b)(2) and notwithstanding any provisions of section 504(a)(2) of the Act, the records referred to in Section III(a) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service, or the Securities & Exchange Commission;

(ii) Any fiduciary of a Client Plan invested directly in shares of an Affiliated Fund, any fiduciary of a Client Plan who has the authority to acquire or to dispose of the interest in a Collective Fund in which a Client Plan invests, any fiduciary of a Client Plan invested indirectly in an Affiliated Fund through a Collective Fund where such fiduciary has the authority to acquire or to dispose of the interest in such

Collective Fund, and any duly authorized employee or representative of such fiduciary; and

(iii) Any participant or beneficiary of a Client Plan invested directly in shares of an Affiliated Fund or invested in a Collective Fund, and any participant or beneficiary of a Client Plan invested indirectly in shares of an Affiliated Fund through a Collective Fund, and any representative of such participant or beneficiary; and

(2) None of the persons described in Section III(b)(1)(ii) and (iii) shall be authorized to examine trade secrets of Principal, or commercial or financial information which is privileged or confidential.

Section IV—Definitions

For purposes of this exemption:

(a) The term, ''Principal,'' means Principal Trust, Principal Life, and any affiliate thereof, as defined, below, in Section IV(c).

(b) The term, ''Client Plan(s),'' means a 401(k) plan(s), an individual retirement account(s), other tax-qualified plan(s), and other plan(s) as defined in the Act and Code, but does not include any employee benefit plan sponsored or maintained by Principal, as defined, above, in Section IV(a).

(c) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(d) The term, ''control,'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) The term, ''Affiliated Fund(s),'' means Principal Funds, Inc., a series of mutual funds managed by Principal Management Corporation, an affiliate of Principal, as defined, above in Section IV(c), and any other diversified open-end investment company or companies registered with the Securities and Exchange Commission under the Investment Company Act and operated in accordance with Rule 2a–7 under the Investment Company Act, as amended, established and maintained by Principal now or in the future for which Principal serves as an investment adviser.

(f) The term, ''net asset value per share,'' and the term, ''NAV,'' mean the amount for purposes of pricing all purchases and sales of shares of an Affiliated Fund, calculated by dividing the value of all securities, determined by a method as set forth in the summary prospectus for such Affiliated Fund and in the statement of additional information, and other assets belonging to such Affiliated Fund or portfolio of such Affiliated Fund, less the liabilities charged to each such portfolio or each such Affiliated Fund, by the number of outstanding shares.

(g) The term, ''relative,'' means a relative as that term is defined in section 3(15) of the Act (or a member of the family as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(h) The term, ''Second Fiduciary,'' means the fiduciary of a Client Plan who is independent of and unrelated to Principal. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to Principal if:

(1) Such Second Fiduciary, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Principal;

(2) Such Second Fiduciary, or any officer, director, partner, employee, or relative of such Second Fiduciary, is an officer, director, partner, or employee of Principal (or is a relative of such person); or

(3) Such Second Fiduciary, directly or indirectly, receives any compensation or other consideration for his or her personal account in connection with any transaction described in this exemption.

If an officer, director, partner, or employee of Principal (or relative of such person) is a director of such Second Fiduciary, and if he or she abstains from participation in:

(i) The decision of a Client Plan to invest in and to remain invested in shares of an Affiliated Fund directly, the decision of a Client Plan to invest in shares of an Affiliated Fund indirectly through a Collective Fund, and the decision of a Client Plan to invest in a Collective Fund that may in the future invest in shares of an Affiliated Fund;

(ii) Any authorization in accordance with Section II(i), and any authorization, pursuant to negative consent, as described in Section II(k) or in Section II(l); and

(iii) The choice of such Client Plan's investment adviser; then Section IV(h)(2), above, shall not apply.

(i) The term, ''Secondary Service(s),'' means a service or services other than an investment management service, investment advisory service, and any similar service which is provided by Principal to an Affiliated Fund, including but not limited to custodial, accounting, administrative services, and brokerage services. Principal may also serve as a dividend disbursing agent, shareholder servicing agent, transfer agent, fund accountant, or provider of some other Secondary Service, as defined, in this Section IV(i).

(j) The term, ''Collective Fund(s),'' means a separate account of an insurance company, as defined in section 2510.3–101(h)(1)(iii) of the Department's plan assets regulations,[5] maintained by Principal, and a bank-maintained common or collective investment trust maintained by Principal.

(k) The term, ''business day,'' means any day that

(1) Principal is open for conducting all or substantially all of its business; and

(2) The New York Stock Exchange (or any successor exchange is open for trading.

(l) The term, ''Fee Increase(s),'' includes any increase by Principal in a rate of a fee, previously authorized in writing by the Second Fiduciary of each affected Client Plan, pursuant to Section II(i)(2)(i)–(iv), above, and in addition includes, but is not limited to:

(1) Any increase in any fee that results from the addition of a service for which a fee is charged;

(2) Any increase in any fee that results from a decrease in the number of services and any increase in any fee that results from a decrease in the kind of service(s) performed by Principal for such fee over an existing rate of fee for each such service previously authorized by the Second Fiduciary, in accordance with Section II(i)(2)(i)–(iv), above; and

(3) Any increase in any fee that results from Principal changing from one of the fee methods, as described, above, in Section II(a)(1)–(3), to using another of the fee methods, as described, above, in Section II(a)(1)–(3).

(m) The term, ''Plan-Level Management Fee,'' includes any investment management fee, investment advisory fee, and any similar fee paid by a Client Plan to Principal for any investment management services, investment advisory services, and similar services provided by Principal to such Client Plan at the plan-level. The term, ''Plan-Level Management Fee'' does not include a separate fee paid by a Client Plan to Principal for asset allocation service(s) (Asset Allocation Service(s)), as defined, below, in Section

[5] 51 FR 41262 (November 13, 1986).

IV(p), provided by Principal to such Client Plan at the plan-level.[6]

(n) The term, ''Collective Fund-Level Management Fee,'' includes any investment management fee, investment advisory fee, and any similar fee paid by a Collective Fund to Principal for any investment management services, investment advisory services, and any similar services provided by Principal to such Collective Fund at the collective fund level.

(o) The term, ''Affiliated Fund-Level Advisory Fee'' includes any investment advisory fee and any similar fee paid by an Affiliated Fund to Principal under the terms of an investment advisory agreement adopted in accordance with section 15 of the Investment Company Act.

(p) The term, ''Asset Allocation Service(s),'' means a service or services to a Client Plan relating to the selection of appropriate asset classes or target-date ''glidepath,'' and the allocation or reallocation (including rebalancing) of the assets of a Client Plan among the selected asset classes. Such services do not include the management of the underlying assets of a Client Plan, the selection of specific funds or managers, and the management of the selected Affiliated Funds or Collective Funds.

Effective Date: This exemption is effective as of the date of the publication of the final exemption in the **Federal Register**.

Written Comments

In the Notice, the Department invited all interested persons to submit written comments and requests for a hearing within 45 days of the date of the publication of the Notice in the **Federal Register** on December 13, 2011. All comments and requests for hearing were due by January 27, 2012. During the comment period, the Department received no requests for hearing. However, the Department did receive a comment (the Original Comment) from the Applicants via an email, dated January 27, 2012. In the email, the Applicants requested certain modifications to the language of three (3) of the conditions of the exemption, as set forth in the Notice. Subsequently, after further consideration, the Applicants, in a letter dated March 19, 2012, amended the Original Comment (the Amended Comment). The Applicants' Amended Comment is discussed in paragraphs 1–3, below, in an order that corresponds to the appearance of the relevant language in the Notice.

1. The Applicants have requested a modification to the language of Section II(j)(4)(ii)(A), as set forth on page 77601, column 3, lines 10–30 of the Notice. Section II(j)(4)(ii)(A) in the Notice reads, as follows:

> In the case of a Client Plan which invests in a Collective Fund, the termination will be implemented by the withdrawal of such Client Plan from all investments in such affected Collective Fund, and such withdrawal will be implemented by Principal within such time as may be necessary for withdrawal in an orderly manner that is equitable to the affected withdrawing Client Plan and to all non-withdrawing Client Plans, but in no event shall such withdrawal be implemented by Principal more than five (5) business days after the day Principal receives from the Second Fiduciary, acting on behalf of such withdrawing Client Plan, a Termination Form or receives some other written notification of intent to terminate the investment of such Client Plan in such Collective Fund.

In the comment letter, the Applicants agreed to accept the condition of a firm five (5) business day limitation on withdrawals from any Collective Fund that is operating in reliance on this exemption. However, Principal requests that this condition be waived in the event that (a) any governmental authority forbids Principal from distributing the funds within five (5) days due to an emergency (*e.g.,* a market closure); or (b) the withdrawing Client Plan fails to direct Principal as to where to reinvest or send the withdrawal proceeds. Principal also requests that if the Second Fiduciary specifies an effective date for the withdrawal that is later than the date the Termination Form is delivered to Principal that Principal may treat such later date as the date of receipt.

In order to clarify the language, as set forth in Section II(j)(4)(ii)(A) in the Notice, the Applicants request that the language of Section II(j)(4)(ii)(A) in the exemption be amended as follows:

> In the case of a Client Plan which invests in a Collective Fund, the termination will be implemented by the withdrawal of such Client Plan from all investments in such affected Collective Fund, and such withdrawal will be implemented by Principal within such time as may be necessary for withdrawal in an orderly manner that is equitable to the affected withdrawing Client Plan and to all non-withdrawing Client Plans, but in no event shall such withdrawal be implemented by Principal more than five (5) business days after the day Principal receives from the Second Fiduciary, acting on behalf of such withdrawing Client Plan, a Termination Form or receives some other written notification of intent to terminate the investment of such Client Plan in such Collective Fund, unless such withdrawal is otherwise prohibited by a governmental entity with jurisdiction over the Collective Fund, or the Second Fiduciary fails to instruct Principal as to where to reinvest or send the withdrawal proceeds;

The Department concurs, and accordingly, language of Section II(j)(4)(ii)(A) in the exemption has been amended, as requested by the Applicants.

2. The Applicants have requested deletion of the language of Section II(j)(4)(ii)(B), as set forth on page 77601, column 3, lines 31–45 of the Notice. Section II(j)(4)(ii)(B) in the Notice reads, as follows:

> Principal will pay to such withdrawing Client Plan interest on the settlement amount calculated at the prevailing Federal funds rate plus two percent (2%) for the period from the day Principal receives from the Second Fiduciary, acting on behalf of such withdrawing Client Plan, a Termination Form or receives some other written notification of intent to terminate the investment of such Client Plan in such Collective Fund, to the date Principal pays such settlement amount in cash, with interest thereon, to such withdrawing Client Plan.

In the comment letter, the Applicants agreed to accept the condition of a firm five (5) business day limitation on withdrawals from any Collective Fund, as set forth in Section II(j)(4)(ii)(A) of this exemption, subject to the elimination of the requirement that the Applicants pay interest during such five business day period.

The Department concurs, and accordingly, Section II(j)(4)(ii)(B), as set forth in the Notice, has been deleted from this exemption.

3. The Applicants have requested a modification to the language of Section II(j)(4)(ii)(C), as set forth on page 77601, column 3, lines 46–61 of the Notice. Section II(j)(4)(ii)(C) in the Notice reads, as follows:

> From the date a Second Fiduciary, acting on behalf of a Client Plan that invests in a Collective Fund, returns a Termination Form or returns some other written notification of intent to terminate such Client Plan's investment in such Collective Fund, such Client Plan will not be subject to pay a *pro rata* share of any Collective Fund-Level Management Fee, nor will such Client Plan be subject to any other changes to the portfolio of such Collective Fund, including a *pro rata* share of any Affiliated Fund-Level Advisory Fee arising from the investment by such Collective Fund in an Affiliated Fund.

[6] For the receipt by Principal from a Client Plan of a fee for Asset Allocation Services provided by Principal to such Client Plan at the plan-level, Principal relies on the relief provided by the statutory exemption, as set forth in section 408(b)(2) of the Act and the Department's regulations, pursuant to 29 CFR 2550.408b–2. The Department is offering no view, herein, as to whether the receipt by Principal of such an asset allocation fee is covered by such statutory exemption, nor is the Department, herein, offering any view as to whether Principal satisfies the conditions set forth in such statutory exemption.

In this regard, the Applicants acknowledge that a Client Plan which timely returns a Termination Form or other notice of termination in proper form (*e.g.,* with sufficient information to implement the intent of such Client Plan) will be entitled to receive the NAV of the Collective Fund ''as of'' the close of business on the date of receipt by Principal of notice of termination—even if the funds are not distributed for up to five (5) business days. The Applicants further acknowledge that this would mean that no further charges—whether directly at the Collective Fund-Level or indirectly at the Affiliated Fund-Level will be incurred from and after the effective date of the receipt of the notification of termination by Principal. Accordingly, in order to clarify the language, as set forth in Section II(j)(4)(ii)(C) in the Notice, the Applicants request that Section II(j)(4)(ii)(C) be renumbered as Section II(j)(4)(ii)(B) and that the word, ''changes,'' as set forth on page 77601, column 3, line 56 the Notice be amended to the word, ''charges.''

The Department concurs, with the Applicants' requested amendments to Section II(j)((4)(ii)(C). In addition, the Department wishes to clarify that the effective date of a withdrawal request is the day Principal receives notification of termination from a withdrawing Client Plan. Further, the Department wishes to clarify that a withdrawing Client Plan, in addition to not being subject to pay a *pro rata* share of any fees arising from the investment by such Client Plan in such Collective Fund, and any Affiliated Fund-Level Advisory Fee arising from such Collective Fund investing in an Affiliated Fund, a withdrawing Client Plan will not be subject to pay a *pro rata* share of any fee for Secondary Services arising from the investment by such Collective Fund in such Affiliated Fund. Accordingly, the Department has amended the language of Section II(j)(4)(ii)(C), as set forth in, on page 77601, column 3, lines 46–61 of the Notice, as follows:

From the date Principal receives from a Second Fiduciary, acting on behalf of a Client Plan, that invests in a Collective Fund, a Termination Form or receives some other written notification of intent to terminate such Client Plan's investment in such Collective Fund, such Client Plan will not be subject to pay a *pro rata* share of any fees arising from the investment by such Client Plan in such Collective Fund, including any Collective Fund-Level Management Fee, nor will such Client Plan be subject to any other charges to the portfolio of such Collective Fund, including a *pro rata* share of any Affiliated Fund-Level Advisory Fee and any fee for Secondary Services arising from the investment by such Collective Fund in an Affiliated Fund.

In addition to the changes to the language of the final exemption requested by the Applicants, as discussed above, the Department has decided to clarify the language of several sections of the final exemption. The amended language of each of these sections is set forth in paragraphs 4–8, below.

4. Section II(a)(2)(ii), as set forth in the Notice at page 77599, column 1, lines 33–37, has been deleted. Section II(a)(2)(ii) in the final exemption reads, as follows:

does not pay directly to Principal or indirectly to Principal through the Collective Fund for the entire period of such investment any Collective Fund-Level Management Fee with respect to any assets of such Client Plan invested in such Collective Fund.

5. Section II(a)(3)(i), as set forth in the Notice at page 77599, column 1, lines 64–69 and column 2, lines 1–4, has been deleted. Section II(a)(3)(i) in the final exemption reads, as follows:

does not pay to Principal for the entire period of such investment any a Plan-Level Management Fee (including any ''Net'' Plan-Level Management Fee, as described, above, in Section II(a)(2)(iii)), and does not pay directly to Principal or indirectly to Principal through the Collective Fund for the entire period of such investment any Collective Fund-Level Management Fee with respect to the assets of such Client Plan which are invested in such Affiliated Fund; or

6. Section II(a)(3)(ii), as set forth in the Notice at page 77599, column 2, lines 9–25, has been deleted. Section II(a)(3)(ii) in the final exemption reads, as follows:

pays indirectly to Principal through the Collective Fund a Collective Fund-Level Management Fee, in accordance with Section II(a)(2)(i), above, based on the total assets of such Client Plan invested in such Collective Fund, from which a credit has been subtracted from such Collective Fund-Level Management Fee, where the amount subtracted represents such Client Plan's *pro rata* share of any Affiliated Fund-Level Advisory Fee paid to Principal by such Affiliated Fund; and does not pay to Principal for the entire period of such investment any Plan-Level Management Fee with respect to any assets of such Client Plan invested in such Collective Fund; or

7. Section II(a)(3)(iii), as set forth in the Notice at page 77599, column 2, lines 26–42, has been deleted. Section II(a)(3)(iii) in the final exemption reads, as follows:

pays to Principal a Plan-Level Management Fee, in accordance with Section II(a)(2)(iii), above, based on the total assets of such Client Plan under management by Principal at the plan-level, from which a credit has been subtracted from such Plan-Level Management Fee, where the amount subtracted represents such Client Plan's *pro rata* share of any Affiliated Fund-Level Advisory Fee paid to Principal by such Affiliated Fund; and does not pay directly to Principal or indirectly to Principal through the Collective Fund for the entire period of such investment any Collective Fund-Level Management Fee with respect to any assets of such Client Plan invested in such Collective Fund; or

8. The definition of the term, ''Asset Allocation Services(s),'' as set forth in Section IV(p) in the Notice at page 77605, column 2, lines 21–37, has been deleted. The amended definition of the term, ''Asset Allocation'' in the final exemption reads, as follows:

The term, ''Asset Allocation Service(s),'' means a service or services to a Client Plan relating to the selection of appropriate asset classes or target-date ''glidepath,'' and the allocation or reallocation (including rebalancing) of the assets of a Client Plan among the selected asset classes. Such services do not include the management of the underlying assets of a Client Plan, the selection of specific funds or managers, and the management of the selected Affiliated Funds or Collective Funds.

After full consideration and review of the entire record, including the Original Comment and the Amended Comment filed by the Applicants, the Department has determined to grant the exemption, as modified, above. The Original Comment and the Amended Comment submitted to the Department by the Applicants have been included as part of the public record of the exemption application. A copy of the Original Comment and the Amended Comment is posted on the Department's Web site at *http://www.regulations.gov.* The complete application file (D–11579), including all supplemental submissions received by the Department, is available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on December 13, 2011, at 76 FR 77598.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 693–8540 (This is not a toll-free number).

Weyerhaeuser Company (Weyerhaeuser) and Federalway Asset Management LP (collectively, the Applicants) Located in Federalway, Washington

[Exemption Application No. D–11677; Prohibited Transaction Exemption 2012–12]

Exemption

Section I: Specific Exemption Involving the Contribution In-Kind

The restrictions of sections 406(a)(1)(A), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) and 4975(c)(1)(E) of the Code,[7] shall not apply, effective as of the date of the publication of this exemption in the **Federal Register**, to the contribution in-kind by the Weyerhaeuser Company (Weyerhaeuser), the sponsor of the Weyerhaeuser Pension Plan (the Plan), of a bundle of assets (the Assets) owned by Weyerhaeuser Asset Management LLC (WAM), a wholly-owned subsidiary of Weyerhaeuser NR Company which is in turn a wholly-owned subsidiary of Weyerhaeuser, to the Weyerhaeuser Company Master Retirement Trust (the Master Trust); provided that the conditions, as set forth, below, in Section IV, and the following conditions are satisfied:

(a) Prior to the execution and closing on the in-kind contribution of the Assets, an independent, qualified fiduciary (the I/F), as defined in Section V(k), acting on behalf of the Master Trust, determines whether and on what terms to enter into the in-kind contribution of such Assets;

(b) The I/F negotiates, reviews, and approves the specific terms and conditions of the in-kind contribution of the Assets and determines, prior to entering into such in-kind contribution, that such transaction is feasible, in the interest of, and protective of the Master Trust and its participants and beneficiaries;

(c) The I/F takes the necessary steps to ensure compliance by Weyerhaeuser with the terms and conditions of the in-kind contribution of the Assets;

(d) As of the date the Assets are contributed to the Master Trust, the contributed value of the Assets is equal to the fair market value of the Assets, as determined by the I/F;

(e) The terms and conditions of the in-kind contribution of the Assets are no less favorable to the Master Trust than terms negotiated at arm's length under similar circumstances between unrelated parties;

(f) The fair market value of the Assets will constitute less than one percent (1%) of the assets of the Master Trust at the time such Assets are contributed to the Master Trust;

(g) The Master Trust incurs no commissions, fees, costs, or other charges and expenses in connection with the in-kind contribution of the Assets to the Master Trust;

(h) The in-kind contribution of the Assets is a one-time transaction;

(i) The fair market value of the Assets is *not* credited in the prefunding balance for purposes of calculating the minimum required contributions of Weyerhaeuser to the Plan;

(j) Pursuant to the royalty interest agreement (the Royalty Agreement) with Federalway Asset Management LP (Newco), the Master Trust will be entitled to receive annual royalty payments in the amount of 12.5 percent (12.5%) on revenues of less than $25 million per year and 15 percent (15%) on revenues of more than $25 million per year; and

(k) The termination of Newco as investment manager of the Master Trust will have no impact on the Master Trust's rights under the Royalty Agreement.

Section II: Specific Exemption Involving the Management by Newco of the Assets of Employee Benefit Plans

Effective for a period of five (5) years, beginning on the date of the publication of this exemption in the **Federal Register** and ending on the day which is five (5) years from such publication date, the restrictions of section 406(a)(1)(A) through (D) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to:

(a) Any transaction between a party in interest, as defined in Section V(e), with respect to the Plan and the Master Trust in which such Plan has an interest; and any transaction between a party in interest, as defined in Section V(e), with respect to any other employee benefit plan or employee benefit plans sponsored by Weyerhaeuser (the Other Plan(s)) and the Master Trust in which such Other Plan(s) have an interest; and

(b) Any transaction between a party in interest, as defined in Section V(e), and any employee benefit plan or any employee benefit plans, as defined in Section V(i), (the Client Plan(s)), where such Client Plan has engaged Newco to act as investment manager within the meaning of section 3(38) of the Act, or where such Client Plan is invested in a collective investment vehicle managed by Newco the assets of which are treated as plan assets under section 3(42) of the Act; provided that:

(1) Newco has discretionary authority or control with respect to the assets of the Plan, the assets of the Other Plan(s), or the assets the Client Plan(s) which are invested in an investment fund (a Managed Account) involved in any such transaction;

(2) Newco satisfies the definition, as set forth, below, in Section V(a) of this exemption; and

(3) The conditions as set forth, below, in Section III, and Section IV, are satisfied.

Section III: Specific Conditions Applicable to Transactions Described in Section II of This Exemption

(a) At the time of the transaction, as defined in Section V(h), neither the party in interest, as defined in Section V(e), nor any affiliate, as defined in Section V(b):

(1) Has the authority to appoint or terminate Newco as a manager of the Managed Account involved in the transaction, or

(2) Has the authority to negotiate on behalf of the Plan, the Other Plan(s), or the Client Plan(s), the terms of the management agreement with Newco (including renewals or modifications thereof) with respect to the Managed Account involved in the transaction;

Notwithstanding the foregoing, in the case of a Managed Account in which two (2) or more unrelated plans, as defined in Section V(i), have an interest, a transaction with a party in interest, as defined in Section V(e), with respect to a plan will be deemed to satisfy the requirements of Section III(a), if the assets of the plan managed by Newco in the Managed Account, when combined with the assets of other plans established or maintained by the same employer (or affiliate thereof, as described in Section V(b)(1)) or by the same employee organization, and managed in the same Managed Account, represent less than 10 percent (10%) of the assets of the Managed Account;

(b) The transaction is not described in—

(1) Prohibited Transaction Exemption 2006–16 (71 FR 63786; October 31, 2006) (relating to securities lending arrangements) (as amended or superseded),

(2) Prohibited Transaction Exemption 83–1 (48 FR 895; January 7, 1983) (relating to acquisitions by plans of interests in mortgage pools) (as amended or superseded), or

(3) Prohibited Transaction Exemption 82–87 (47 FR 21331; May 18, 1982)

[7] For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

(relating to certain mortgage financing arrangements) (as amended or superseded);

(c) The terms of the transaction are negotiated on behalf of the Managed Account by, or under the authority and general direction of, Newco, and either Newco, or (so long as Newco retains full fiduciary responsibility with respect to the transaction) a property manager acting in accordance with written guidelines established and administered by Newco, makes the decision on behalf of the Managed Account to enter into the transaction, provided that the transaction is not part of an agreement, arrangement, or understanding designed to benefit a party in interest, as defined in Section V(e);

(d) The party in interest, as defined in Section V(e), dealing with the Managed Account is neither Newco nor a person related to Newco, within the meaning of Section V(g);

(e) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of Newco, the terms of the transaction are at least as favorable to the Managed Account as the terms generally available in arm's length transactions between unrelated parties;

(f) Neither Newco nor any affiliate thereof, as defined in Section V(c), nor any owner, direct or indirect, of a 5 percent (5%) or more interest in Newco is a person who within the ten (10) years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of:

(1) Any felony involving abuse or misuse of such person's employee benefit plan position or employment, or position or employment with a labor organization;

(2) Any felony arising out of the conduct of the business of a broker, dealer, investment adviser, bank, insurance company, or fiduciary;

(3) Income tax evasion;

(4) Any felony involving the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities;

(5) Conspiracy or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element; or

(6) Any other crime described in section 411 of the Act. For purposes of this Section III(f), a person shall be deemed to have been ''convicted'' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

Section IV–General Requirements Applicable to Transactions Described in Section I and Section II of This Exemption

(a) Newco or an affiliate, as defined in Section V(l), maintains or causes to be maintained within the United States, for a period of six (6) years from the date of each covered transaction, the records necessary to enable the persons described, below, in Section IV(b)(1)(A)–(E), to determine whether the conditions of this exemption have been met, except that:

(1) A separate prohibited transaction will not be considered to have occurred solely because, due to circumstances beyond the control of Newco and/or its affiliates, as defined in Section V(l), the records are lost or destroyed prior to the end of the six (6) year period, and

(2) No party in interest or disqualified person, as defined in Section V(e), other than Newco, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination, as required by Section IV(b)(1).

(b)(1) Except as provided in Section IV(b)(2), and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to, above, in Section IV(a) are unconditionally available for examination at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department or of the Internal Revenue Service;

(B) Any fiduciary of the Plan, any fiduciary of any Other Plan(s), any fiduciary of any Client Plan(s), and any duly authorized representative of such fiduciary;

(C) Any contributing employer to the Plan, any contributing employer to any Other Plan(s), any contributing employer to any of the Client Plan(s), and any duly authorized employee representative of such contributing employer;

(D) Any participant or beneficiary of the Plan, any participant or beneficiary of any Other Plan(s), any participant or beneficiary of any Client Plan(s), and any duly authorized representative of such participants or beneficiaries; and

(E) Any employee organization whose members are covered by the Plan, any employee organization whose members are covered by the Other Plan(s), and any employee organization whose members are covered by any Client Plan(s);

(2) None of the persons, described in Section IV(b)(1)(B) through (E), shall be authorized to examine trade secrets of Newco or its affiliates, as defined in Section V(l), or commercial or financial information which is privileged or confidential.

Section V—Definitions

(a) For purposes of this exemption, the term, Federalway Asset Management LP, and the term, ''Newco,'' means a fiduciary (as defined in Section V(j)) which is an investment adviser registered under the Investment Advisers Act of 1940 that has total client assets under its management and control in excess of $85,000,000, as of the date Newco commences operations, and shareholders' or partners' equity (as defined in Section V(m)) in excess of $1,000,000.

(b) For purposes of Section III(a), an ''affiliate'' of a person means—

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, 10 percent (10%) or more partner, or highly compensated employee as defined in section 4975(e)(2)(H) of the Code (but only if the employer of such employee is the plan sponsor), and

(3) Any director of the person or any employee of the person who is a highly compensated employee, as defined in section 4975(e)(2)(H) of the Code, or who has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets involved in the transaction. A named fiduciary (within the meaning of section 402(a)(2) of the Act) of a plan with respect to the plan assets involved in the transaction and an employer any of whose employees are covered by the plan will also be considered affiliates with respect to each other for purposes of Section III(a), if such employer or an affiliate of such employer has the authority, alone or shared with others, to appoint or terminate the named fiduciary or otherwise negotiate the terms of the named fiduciary's employment agreement.

(c) For purposes of Section III(f), an ''affiliate'' of a person means—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any director of, relative of, or partner in, any such person,

(3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent (5%) or more partner or owner, and

(4) Any employee or officer of the person who—

(A) Is a highly compensated employee (as defined in section 4975(e)(2)(H)) of the Code or officer (earning 10 percent (10%) or more of the yearly wages of such person), or

(B) Has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.

(d) For purposes of Section V(b), Section V(c), and Section V(l), the term, ''control,'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) For purposes of this exemption, the term, ''party in interest,'' means a person described in section 3(14) of the Act and includes a ''disqualified person,'' as defined in Code section 4975(e)(2).

(f) For purposes of Section V(c)(2) and Section V(l)(2), the term, ''relative,'' means a relative as that term is defined in section 3(15) of the Act, or a brother, a sister, or a spouse of a brother or sister.

(g) Newco is ''related'' to a party in interest for purposes of Section III(d), if, as of the last day of its most recent calendar quarter: (i) Newco owns a 10 percent (10%) or more interest in the party in interest; (ii) a person controlling, or controlled by, Newco owns a 20 percent (20%) or more interest in the party in interest; (iii) the party in interest owns a 10 percent (10%) or more interest in Newco; or (iv) a person controlling, or controlled by, the party in interest owns a 20 percent (20%) or more interest in Newco. Notwithstanding the foregoing, a party in interest is ''related'' to Newco if: (i) A person controlling, or controlled by, the party in interest has an ownership interest that is less than 20 percent (20%) but greater than 10 percent (10%) in Newco and such person exercises control over the management or policies of Newco by reason of its ownership interest; (ii) a person controlling, or controlled by, Newco has an ownership interest that is less than 20 percent (20%) but greater than 10 percent (10%) in the party in interest and such person exercises control over the management or policies of the party in interest by reason of its ownership interest. For purposes of this definition:

(1) The term ''interest'' means with respect to ownership of an entity—

(A) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation,

(B) The capital interest or the profits interest of the entity if the entity is a partnership, or

(C) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise; and

(2) A person is considered to own an interest if, other than in a fiduciary capacity, the person has or shares the authority—

(A) To exercise any voting rights or to direct some other person to exercise the voting rights relating to such interest, or

(B) To dispose or to direct the disposition of such interest.

(h) For purposes of this exemption, the time as of which any transaction occurs is the date upon which the transaction is entered into. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into on or after the date of the publication of this exemption in the **Federal Register** or a renewal that requires the consent of Newco occurs on or after the date of the publication of this exemption in the **Federal Register**, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, the requirements will continue to be satisfied thereafter with respect to the transaction. Nothing in this paragraph shall be construed as exempting a transaction entered into by a Managed Account which becomes a transaction, as described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of this exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(i) For purposes of this exemption, the terms, ''employee benefit plan'' and ''plan,'' include an employee benefit plan described in section 3(3) of the Act and/or a plan described in section 4975(e)(1) of the Code, but do not include a plan sponsored by Newco or any affiliate of Newco.

(j) For purposes of Section V(a), the term ''fiduciary'' means a fiduciary managing the assets of a plan, as defined in Section V(i), in a Managed Account that is independent of and unrelated to the employer sponsoring such plan. For purposes of this exemption, a fiduciary will not be deemed to be independent of and unrelated to the employer sponsoring the plan, if such fiduciary directly or indirectly controls, is controlled by, or is under common control with the employer sponsoring the plan.

(k) For purposes of Section I, the term, ''I/F,'' means a fiduciary that:

(1) Can demonstrate, through experience and/or education, proficiency in matters involving the in-kind contribution of assets, including assets such as the Assets which are the subject of Section I of this exemption;

(2) Is an expert with respect to the valuation of assets, such as the Assets, or has the ability to access (itself or through persons engaged by it) appropriate data regarding the value of assets, such as the Assets, in the relevant market;

(3) Has not engaged in any criminal activity involving fraud, fiduciary standards, or securities law violations;

(4) Is appointed to act on behalf of the Master Trust for all purposes related to in-kind contribution of the Assets; and

(5) Is independent of and unrelated to Weyerhaeuser and its affiliates, as defined, below, in Section V(l). For purposes of this exemption, a fiduciary will not be deemed to be independent of and unrelated to Weyerhaeuser and its affiliates if:

(i) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with Weyerhaeuser and its affiliates, as defined, below, in Section V(l),

(ii) Such fiduciary directly or indirectly receives any compensation or other consideration in connection with any of the transactions described in this exemption; except that an I/F may receive compensation for acting as an I/F in connection with the transactions contemplated herein, if the amount or payment of such compensation is not contingent upon or in any way affected by the I/F's ultimate decisions, and

(iii) The annual gross revenue from Weyerhaeuser and its affiliates, as defined, below, in Section V(l), received by such fiduciary, during any year of its engagement, does not exceed one percent (1%) of such fiduciary's annual gross revenue from all sources for its prior tax year.

(l) For purposes of Section IV(a) and Section V(k), the term, ''affiliate,'' means:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner of any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(m) For purposes of Section V(a), the term ''shareholders' or partners' equity'' means the equity shown in the balance sheet, as of the date Newco commences operations, prepared in accordance with

generally accepted accounting principles.

Temporary Nature of the Exemption

Effective Date: With regard to the transaction described in Section I, the Department has determined that the relief granted with respect to such transaction shall be effective, as of the date of the publication of this exemption in the **Federal Register**.

With regard to the transactions described in Section II, the Department has determined that the relief granted with respect such transactions is temporary in nature, and shall be effective, beginning on the date of the publication of this exemption in the **Federal Register** and ending on the day which is five (5) years from the date of the publication of this exemption in the **Federal Register**. Accordingly, relief described in this exemption with respect to the transactions described in Section II will not be available upon the expiration of such five-year period for any new or additional transactions, as described herein, after such date, but would continue to apply beyond the expiration of such five-year period for continuing transactions entered into within the five-year period; provided that the conditions of this exemption continue to be satisfied. Should the applicant wish to extend, beyond the expiration of such five-year period, the relief provided for new or additional transactions, as described in Section II, the Applicants may submit another application for exemption. In this regard, the Department expects that prior to filing another exemption application seeking relief for new or additional transactions, as described in Section II, the Applicants should be prepared to demonstrate compliance with the conditions of this exemption.

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department invited all interested persons to submit written comments and requests for a hearing on the proposed exemption within fifty (50) days of the date of the publication of the Notice in the **Federal Register** on January 20, 2011. All comments and requests for hearing were due by March 12, 2012. Although during the comment period, the Department received numerous telephone calls, emails, and letters from commentators, none of the commentators raised any substantive issues with respect to the transactions which are the subject of this exemption. During the comment period, the Department also received two requests from commentators for a hearing, but the commentators did not provide a substantive reason why a hearing should be held. As no material issues relating to the subject transactions were raised by the commentators during the comment period which would require the convening of a hearing, the Department has determined not to delay consideration of the final exemption by holding a hearing on application D–11677.

Accordingly, after full consideration and review of the entire record, including the comments filed by the commentators, the Department has determined to grant the exemption, as set forth, above. The written comments submitted to the Department by the commentators have been included as part of the public record of the exemption application. Copies of the written comments have also been provided to Weyerhaeuser. The complete application file (D–11677), including all supplemental submissions received by the Department, is available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on January 20, 2012, at 77 FR 3052.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena C. Le Blanc of the Department, telephone (202) 693–8540. (This is not a toll-free number.)

Sammons Enterprises, Inc. Employee Stock Ownership ESOP (the ESOP) Located in Dallas, Texas

[Prohibited Transaction Exemption 2012–13; Exemption Application Number D–11679]

Exemption

The restrictions of sections 406(a)(1)(A) and (D), 406(b)(1), and 406(b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), (D) and (E) of the Code, shall not apply to the personal holding company consent dividend election (the Consent) with respect to Sammons Enterprises, Inc. (Sammons), by the trustee of the ESOP, provided that the following conditions are satisfied:

(a) The trustee of the ESOP is an independent, qualified fiduciary (the I/F), acting on behalf of the ESOP, which determines prior to entering into the transaction that the transaction is feasible, in the interest of, and protective of the ESOP and the participants and beneficiaries of the ESOP;

(b) Before the ESOP enters into the subject transaction, the I/F reviews the transaction, and determines whether or not to approve the transaction, in accordance with the fiduciary provisions of the Act;

(c) The I/F monitors compliance with the terms and conditions of this exemption, as described herein, and ensures that such terms and conditions are at all times satisfied;

(d) Sammons provides to the I/F, in a timely fashion, all information reasonably requested by the I/F to assist it in making its decision whether or not to approve the transaction;

(e) The consent dividend will represent no more than two percent (2%) of the ESOP's assets in any taxable year within the timeframe of the exemption herein;

(f) Shares of Sammons stock are held in an ESOP suspense account, and are allocated each year to each eligible ESOP participant in accordance with the applicable provisions of the Code;

(g) All of the requirements of section 565 of the Code are met with respect to the Consent; and

(h) All shareholders of Sammons are requested to consent to the dividend in the manner prescribed under section 565 of the Code.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 14, 2011 at 76 FR 70503, and the notice of amendment to the proposed exemption published on March 30, 2012 at 77 FR 19338.

Temporary Nature of Exemption: This exemption will expire at the earlier of (i) the first day of Sammons' first fiscal year next following the fiscal year in which falls the fifth anniversary of the date of grant of the exemption; and (ii) the first day upon which the ESOP fails to own at least 99% of the issued and outstanding shares of Sammons.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 693–8546. (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 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) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional 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

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 25th day of May 2012.

Lyssa E. Hall,

Acting Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2012–13263 Filed 5–31–12; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Exemptions From Certain Prohibited Transaction Restrictions

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). This notice includes the following proposed exemptions: D–11649, Meridian Medical Associates, S.C, Employees' Retirement Plan and Trust (the Plan); D–11710, El Paso Corporation Retirement Savings Plan (the Plan); and D–11714, Ed Laur Defined Benefit Plan (the Plan).

DATES: 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.

ADDRESSES: 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. 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 email or FAX. Any such comments or requests should be sent either by email 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.

Warning: If you submit written comments or hearing requests, do not include any personally-identifiable or confidential business information that you do not want to be publicly-disclosed. All comments and hearing requests are posted on the Internet exactly as they are received, and they can be retrieved by most Internet search engines. The Department will make no deletions, modifications or redactions to the comments or hearing requests received, as they are public records.

SUPPLEMENTARY INFORMATION:

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).

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 (76 FR 66637, 66644, October 27, 2011).[1] 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.

Meridian Medical Associates, S.C., Employees' Retirement Plan and Trust (the Plan), Located in Joliet, Illinois

[Exemption Application No. D–11649]

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 Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

I—Transactions

If the exemption is granted, the restrictions of sections 406(a)(1)(A), 406(a)(1)(D), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), 4975(c)(1)(D), and 4975(c)(1)(E) of the Code, will not apply to:

(a) The cash purchase (the Purchase) by the Plan (formerly, the Will County Medical Associates, S.C. Employees' Retirement Plan & Trust) of a 52 percent (52%) beneficial ownership interest in a parcel of improved real property (the Annex) located in Joliet, Illinois, from the JMG Property, LLC (the LLC), a party in interest with respect to the Plan;

(b) The entry by the Plan through a land trust (no. 6722), into a lease (the Annex Lease) with Meridian Medical Associates, S.C. (the Employer) (formerly, the Will County Medical

[1] The Department has considered exemption applications received prior to December 27, 2011 under the exemption procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Associates, S.C.), as lessee, of a 52 percent (52%) beneficial ownership interest in the Annex; and

(c) The personal guarantees, jointly and severally, by each of the shareholders of the Employer of the obligations of such Employer under the terms of the Annex Lease; provided that the conditions set forth, below, in Section II are satisfied.

II—Conditions

(a) With respect to the Purchase by the Plan of a 52 percent (52%) beneficial ownership interest in the Annex from the LLC:

(1) The Purchase is a one-time transaction for cash;

(2) The terms and conditions of the Purchase are no less favorable to the Plan than those obtainable by the Plan under similar circumstances when negotiated at arm's length with unrelated third parties;

(3) Prior to entering into the Purchase, an independent, qualified fiduciary (the I/F) determines that the Purchase is in the interest of, and protective of the Plan and of its participants and beneficiaries;

(4) The I/F negotiates, reviews, and approves the terms of the Purchase prior to the consummation of such Purchase;

(5) The acquisition price paid by the Plan for a 52 percent (52%) beneficial ownership interest in the Annex is not more than the fair market value of such interest, as determined by an independent, qualified appraiser, as of the date of the Purchase;

(6) An independent, qualified appraiser determines, as of the date of the Purchase, the fair market value of a parcel of improved real property (the Original Facility), which is adjacent to the Annex, and in which the Plan holds a 100 percent (100%) beneficial ownership interest through a land trust (no. 2024);

(7) Immediately following the Purchase, the combined fair market value of the Plan's 52 percent (52%) beneficial ownership interest in the Annex and the fair market value of the Plan's 100 percent (100%) beneficial ownership interest in the Original Facility when added together (the Combined Facility) does not exceed 20 percent (20%) of the fair market value of the total assets of the Plan;

(8) In the event of any actual or potential divergence of interests between the Plan and the LLC, that results as a consequence of their shared ownership interest in the Annex, the I/F takes appropriate steps to resolve such conflicts of interest and in all events acts prudently and solely in the interest of the Plan with respect to all decisions pertaining to the acquisition, holding, management, and disposition of the Plan's interest in the Annex. To the extent that a conflict occurs, the I/F has, by its written agreement, the sole authority acting on behalf of the Plan to determine the resolution of any conflict that arises from the shared beneficial ownership of the Annex by the Plan and the LLC and that such determination shall be binding on the LLC; and

(9) The Plan does not incur any fees, costs, commissions, or other charges as a result of engaging in the Purchase, other than the necessary and reasonable fees payable to the I/F and to the independent, qualified appraiser, respectively.

(b) With respect to the Annex Lease:

(1) The terms and conditions of the Annex Lease are no less favorable to the Plan than those obtainable by the Plan under similar circumstances when negotiated at arm's length with unrelated third parties;

(2) Prior to entering into the Annex Lease, the I/F, acting on behalf of the Plan, negotiates, reviews, and approves the terms and conditions of the Annex Lease, and determines that the Annex Lease is in the interest of, and protective of the Plan and its participants and beneficiaries;

(3) The I/F monitors and enforces compliance with the conditions of this exemption and monitors and enforces compliance with all of the terms of the Annex Lease throughout the initial term of such lease and throughout the duration of each renewal of such lease, and is also responsible for legally enforcing the payment of rent and the proper performance of all other obligations of the Employer under the terms of such lease;

(4) The rent paid to the Plan by the Employer under the initial term of the Annex Lease, and the rent paid to the Plan by the Employer during each renewal of such lease, is based upon the fair market value of the Annex, as established by an independent, qualified appraiser at the time of such initial term and at the time of each renewal of such lease;

(5) The rent under the Annex Lease is adjusted at the commencement of the second year of the term of such lease and is adjusted every second year thereafter by the I/F, based on an appraisal of the fair market value of the Annex, as established by an independent, qualified appraiser at the time of each such adjustment of rent. If twelve percent (12%) of the fair market value of the Annex, established by such appraisal at the time of any such adjustment, is greater than the then current base rent under the Annex Lease, then the base rent is revised by the I/F to reflect the increase in fair market value of the Annex, as established by such appraisal. If twelve percent (12%) of the fair market value of the Annex, established by such appraisal at the time of any such adjustment, is less than or equal to the then current base rent, then the base rent remains unchanged by the I/F;

(6) The terms of the Annex Lease are triple net, such that the Employer, as lessee, is responsible for paying, in addition to monthly rent, all costs for maintenance, taxes, utilities, and insurance on the Annex;

(7) Prior to entering into any renewal of the Annex Lease, the I/F, acting on behalf of the Plan, approves such renewal beyond the initial term of such lease; and

(8) The Plan does not incur any fees, any costs, any commissions, and any other charges and expenses as a result of entering into the Annex Lease, other than the necessary and reasonable fees payable to the I/F and payable to the independent, qualified appraiser, respectively.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with a cash or deferred compensation arrangement. The Plan was established on January 20, 1972, and has been amended and restated on several occasions since that date, the latest being March 10, 2010. The Plan had, as of December 31, 2011, total assets valued at approximately $31,197,086. It is represented that the most recent update of the number of participants in the Plan is dated December 31, 2010, as reflected on the Plan's Form 5500. As of December 31, 2010, the Plan had 277 participants, including former employees with deferred benefits. The Plan maintains an individual account for each such participant. Some of the participants in the Plan are also shareholders of the Employer. Some of the shareholders of the Employer also serve as the trustees of the Plan (the Trustees). The Trustees are parties in interest and fiduciaries with respect to the Plan, pursuant to section 3(14)(A) of the Act. The Trustees are elected by the Board of Directors of the Employer (the Board). It is represented that the Trustees have the exclusive right to decide on investments for the Plan without a recommendation from the Board.

2. The sponsor of the Plan is the Employer, an Illinois medical corporation which was incorporated on November 29, 1971. As the sponsor of the Plan, the Employer is a party in

interest with respect to the Plan, pursuant to section 3(14)(C) of the Act. The Employer is engaged in the general practice of medicine. The Employer conducts its operations in both the Original Facility and in the Annex. The Employer employs 45 physicians and more than 200 staff and administrative personnel. Some of the employees are also shareholders of the Employer.

3. The LLC is a limited liability company established on June 24, 2004, for the purpose of purchasing the Annex and leasing it to the Employer. In July 2011, there were twenty-two (22) members of the LLC. All of the members of the LLC are current or former shareholders of the Employer. The Trustees of the Plan are also members of the LLC. It is represented that the LLC is a party in interest with respect to the Plan, pursuant to section 3(14)(G) of the Act.

4. In 1981, the Department granted an individual exemption, Prohibited Transaction Exemption 81–96 (PTE 81–96),[2] which permitted the Plan to purchase the Original Facility from the Employer. The Original Facility consists of approximately 2.28 acres of real property improved by a two-story medical office building, completed in 1969, including a parking lot with 90 spaces. The Original Facility contains approximately 10,583 square feet on each floor for a total (above ground) of approximately 21,166 square feet. In addition, the Original Facility has a fully finished basement containing approximately 10,583 square feet of additional space. Further, PTE 81–96 permitted the Employer to extend credit at an interest rate of 6 percent (6%) per annum to the Plan in connection with the purchase by the Plan of the Original Facility. Currently, however, it is represented that there are no mortgages, no liens, and no other encumbrances of title on the Original Facility. In addition, PTE 81–96 permitted the Plan to lease the Original Facility (the 1981 Lease) to the Employer under triple net terms for a minimum guaranteed rent of $263,000 for a period of 18 years ending on November 1, 1999. Union National Bank and Trust Co. (UNB) of Joliet, Illinois, an independent party, represented at the time the 1981 Lease was entered that the transactions which were the subject of PTE 81–96 were in the interest of the Plan and that the terms of such transactions were arm's length. UNB also was responsible for monitoring the transactions which were the subject of PTE 81–96 and exercising the rights of the Plan with respect to such transactions.

5. In 2001, the Department issued another Prohibited Transaction Exemption 2001–25 (PTE 2001–25),[3] to the same applicants [4] which provided retroactive and prospective relief for a lease (the 1999 Lease) to the Employer of the Original Facility by First Midwest Trust Company of Joliet, Illinois (FMB),[5] as the holder of legal title under the terms of a land trust (no. 2024), and by the Plan, as beneficial owner of the Original Facility. The term of the 1999 Lease was for a period of five (5) years (1999–2004), with an option to renew and extend such lease for two (2) additional successive terms of five (5) years each, subject to the approval of FMB, acting as the independent, qualified fiduciary under PTE 2001–25.[6] Accordingly, it is represented that, since 1981 FMB or a predecessor has served as the I/F with respect to the Plan in connection with PTE 81–96 and PTE 2001–25.

Under the terms of the 1999 Lease, the Employer leased the Original Facility for a ''floating'' monthly rental rate of one percent (1%) of the then appraised value ($3,200,000) of the Original Facility ($3,200,000 times .01 equals $32,000), or twelve percent (12%) of the fair market value of the Original Facility on an annualized basis ($3,200,000 times .12 equals $384,000). The terms of PTE 2001–25 require that an independent, qualified appraiser update the rent every other year, but that the minimum guaranteed monthly rent (regardless of any possible decrease in the appraised value of the Original Facility) would remain $32,000 monthly. It is represented that, with respect to both the 1981 Lease and the 1999 Lease of the Original Facility, the Employer has always paid the rent on time and has otherwise complied with the terms and conditions of such leases and the terms and conditions of PTE 81–96 and PTE 2001–25.

6. The Annex which is the subject of this proposed exemption is physically connected to the Original Facility by means of a single-story entrance foyer and reception area that is a part of the Annex structure. Although the Annex and the Original Facility occupy adjacent parcels, both properties share the same street address, 2100 Glenwood Avenue in Joliet, Illinois.

The Employer purchased the Annex on July 13, 2001, from Blue Cross and Blue Shield of Illinois, an unrelated third party, for a purchase price of $3,757,731.15. The Annex consists of approximately 1.93 acres of real property improved by a single-story medical office building completed in 1996, including a parking lot with 117 spaces. The medical office building contains approximately 13,600 square feet of space at the ground level and another 11,128 square feet at the basement level, for a total of approximately 24,728 square feet of space.

On June 28, 2004, the Employer transferred full legal ownership of the Annex to a land trust (no. 6722) controlled by FMB, as trustee. In this regard, it is represented that in Illinois a land trust exists only to hold title and to facilitate easy transfer of property without expense and administrative process of re-recording instruments of transfer with the county. As discussed above, FMB also serves as the trustee of the land trust (no. 2024) with respect to the legal ownership of the Original Facility. As such, FMB currently holds 100 percent (100%) legal title to both the Original Facility and the Annex. It is represented that FMB, as trustee for the land trusts (nos. 6722 and 2024), has no discretionary authority and serves only as a directed trustee with respect to such land trusts. It is represented that legal ownership held by FMB of the Original Facility and the Annex will not be affected by the proposed Purchase transaction. Further, it is represented that the Plan's current 100 percent (100%) beneficial ownership interest in the Original Facility will not be affected by the proposed Purchase transaction.

On June 30, 2004, acting as the legal owner of the Annex through the land trust (no. 6722), FMB executed a written assignment of 100 percent (100%) of the beneficial ownership interest in the

[2] 46 FR 53816, October 30, 1981.

[3] 66 FR 40734, August 3, 2001.

[4] At the time that the Department issued PTE 81–96 and at the time the Department issued PTE 2001–25, the Employer was known as the ''Joliet Medical Group, Ltd.,'' and the Plan was known as the ''Joliet Medical Group, Ltd. Employee Retirement Plan and Trust.''

[5] It is represented that in 1983 First Midwest Bancorp, Inc., a bank holding company, purchased UNB, and the name of UNB was subsequently changed to First Midwest Bank and Trust. It is represented that First Midwest Bank and Trust, First Midwest Trust Company, and First Midwest Bank whenever referred to in the application all represent the same entity and will be referred to herein as FMB.

[6] It is represented that FMB agreed in 2004 and again in 2009 to the exercise of each of the five (5) year term extensions permitted under the 1999 Lease. Accordingly, the exemptive relief provided by PTE 2001–25 with respect to the leasing by the Plan of the Original Facility to the Employer shall cease, as of October 31, 2014, upon the expiration of the second five (5) year term extension of the 1999 Lease. The Department notes that, should the transactions which are the subject of this proposed exemption be granted, such final exemption does not alter the terms and conditions of PTE 2001–25 with respect to the leasing by the Plan of the Original Facility to the Employer and will not extend the relief provided under PTE 2001–25 to such lease beyond October 31, 2014.

Annex to the LLC. It is represented that on July 1, 2004, the Employer entered into a triple net lease of the Annex with FMB, as legal owner, and the LLC, as the beneficial owner, for a term of five (5) years with successive one (1) year renewal options, unless either party provides a written notice of termination or written notice of intent not to renew. The base rent for the Annex for each lease year under the terms of this lease was $271,200, payable in equal monthly installments of $22,600. It is represented that pursuant to this lease of the Annex, the Employer, as lessee, has paid monthly rent for the use of the Annex to FMB, acting as the lessor. FMB, in turn, has transmitted all rental payments received from the Employer to the LLC, as the current 100 percent (100%) beneficial owner of the Annex.

7. Relief is requested for the proposed Purchase by the Plan from the LLC of a 52 percent (52%) beneficial ownership interest in the Annex. Specifically, the applicant requests relief from sections 406(a)(1)(A), 406(a)(1)(D), 406(b)(1), and 406(b)(2) of the Act, because the LLC is a party in interest with respect to the Plan. As a result of the proposed Purchase, the LLC, which currently holds a 100 percent (100%) beneficial ownership interest in the Annex, will retain only a 48 percent (48%) beneficial ownership interest in the Annex.

8. The proposed Purchase transaction is feasible in that it will be a one-time transaction for cash. Further, it is represented that the proposed Purchase transaction is protective of the Plan and its participants and beneficiaries. In this regard, as discussed more fully, below, Private Bank and Trust Company (PBTC) has represented that it will act as the I/F on behalf of the Plan with regard to the transactions which are the subject of this proposed exemption.

9. It is represented that FMB, as mortgagee, currently holds a mortgage on the Annex in the amount of approximately $3,100,000 with the LLC, as the mortgagor. However, it is represented that the Purchase transaction will be protective of the Plan in that the Plan's 52 percent (52%) beneficial ownership interest in the Annex will be free and clear of any liens, notes, or encumbrances on such Annex.

10. It is further represented that the proposed Purchase is protective of the Plan and its participants and beneficiaries, in that the purchase price to be paid by the Plan for a 52 percent (52%) beneficial ownership interest in the Annex will be determined by an independent, qualified appraiser. Further, it is represented that the fair market value of a 52 percent (52%) beneficial ownership interest in the Annex and the fair market value of the Original Facility will be updated as of the date of the purchase by the Plan.

The Plan retained Mr. Joseph E. Batis, (Mr. Batis), an accredited appraiser with Edward J. Batis & Associates, Inc. of Joliet, Illinois, to inspect the Annex and the Original Facility, and to render an opinion as to the fair market value of each of these properties. Mr. Batis is qualified in that he has actively engaged since 1983 in the practice of real estate analysis and valuation counseling, and has acquired extensive experience in the valuation of partial interests in property. In addition, Mr. Batis has been a member of the MAI Appraisal Institute since 1994, and is also certified by the State of Illinois as a general real estate appraiser.

Mr. Batis represents that both he and his firm are independent of the Employer, and the LLC. It is represented that any fees received from the Employer, as well as any fees received from the LLC, have never equaled or exceeded one percent (1%) of the annual gross billings of Edward J. Batis and Associates, Inc.

As of February 15, 2012, Mr. Batis issued separate appraisal reports addressing the fair market value of the Annex and the fair market value of the Original Facility. In conducting his valuations of the Annex and the Original Facility, Mr. Batis considered the three valuation methodologies commonly utilized in arriving at a value estimate: (i) The cost approach, (ii) the direct sales comparison approach, and (iii) the income approach. In this regard, Mr. Batis concluded that the direct sales comparison approach and the income approach were suitable for the valuation of the Annex and for the valuation of the Original Facility. Mr. Batis represents that the cost approach was excluded, because there has not been sufficient new construction in the local market to support such an approach. In the final appraisal reconciliation of the fair market value of the Annex and the fair market value of the Original Facility, Mr. Batis placed more weight on the results of the direct sales comparison approach, because the primary appeal of the Annex and the Original Facility is to an owner-occupant. After physically inspecting both properties, analyzing all relevant data, and reconciling the applicable valuation methodologies, Mr. Batis determined that the fair market value of the Annex was $4,600,000, as of February 15, 2012, and that the fair market value of the Original Facility was $3,800,000, as of the same date. Mr. Batis has also represented that the foregoing valuations do not require adjustment for the assemblage value of the Combined Facility, because the Annex and the Original Facility can be marketed as separate and independent properties based upon the fact that the entrance foyer connecting these two buildings can easily be removed.

11. In addition to the Purchase transaction, the Employer also seeks an exemption to enter into the Annex Lease, under which FMB, as legal owner, and the Plan, as beneficial owner, will lease a 52 percent (52%) beneficial ownership interest in the Annex to the Employer.

The proposed entry into the Annex Lease is feasible in that the terms of such lease will be evidenced by a written document. Pursuant to the terms of the Annex lease, the Plan will receive 52 percent (52%) of all rental payments made by the Employer under such Lease. In addition, the terms of the Annex Lease provide for an initial term of ten (10) years, with an option to renew and extend such lease for two (2) additional successive terms of five (5) years, each of which is subject to the approval of PBTC, acting as the I/F on behalf of the Plan, as discussed below. The annual lease payments payable by the LLC to the Plan under the terms of the Annex Lease will be twelve percent (12%) of the fair market value (currently $4,600,000) of the Annex ($4,600,000 times .12 equals $552,000 a year), or the equivalent of $22.32 per square foot. The minimum guaranteed monthly base rent under the Annex Lease (regardless of any possible decrease in the appraised fair market value of the Annex) shall be $46,000 or one percent (1%) of the fair market value (currently $4,600,000) of such Annex ($4,600,000 times .01 equals $46,000).

12. It is represented that the proposed Annex Lease is in the interest of the Plan and the participants and beneficiaries of the Plan in that the rent payments under the Annex Lease will provide a fixed return to the account balances of participants in the Plan and will represent an opportunity to generate a guaranteed cash flow for the Plan.

13. It is represented that the entry into the Annex Lease is protective of the Plan, because the terms of the Annex Lease are no less favorable to the Plan than those obtainable by the Plan under similar circumstances when negotiated at arm's length with unrelated third parties. In this regard, Mr. Batis, in a letter dated, March 16, 2012, determined the fair market monthly rental value of the Annex. In making this determination, Mr. Batis considered

the commercial rents charged per square foot at six (6) comparable medical office buildings in the local area, and ascertained that the market rents for properties similar to the Annex ranged from $10.00 to $22.50 per square foot. Based on this information, Mr. Batis concluded that the fair market monthly rental value of the Annex should reflect $22.32 per square foot applicable to the total area of the Annex which includes 13,600 square feet of area on the main level and 11,128 square feet of finished area on the lower level.

Under the terms of the Annex Lease, Schedule A provides for an annual rent equal to 12 percent (12%) of the fair market value of the Annex; provided that any decrease in the value of the Annex shall not be considered in determining the annual rent amount for the Annex. Accordingly, the annual lease payments payable by the Employer for the Annex should reflect twelve percent (12%) of the fair market value ($4,600,000) of the Annex or the equivalent of $46,000 monthly rent and annual rental of $552,000. In his letter dated March 16, 2012, Mr. Batis concluded that based on comparable rental properties, the Annex rents (determined at 12 percent (12%) of fair market value of the Annex) are within the range of fair market rents in the local market. It is represented that Mr. Batis will update the fair market monthly rental value the Annex, as of the date of the entry into the Annex Lease. It is further represented that a new appraisal by an independent, qualified appraiser will be performed every 24 months to update the rent under the Annex Lease.

14. In addition to the Purchase transaction, the applicant also seeks an exemption for the personal guarantees, jointly and severally, by each of the shareholders of the Employer of the obligations of such Employer under the terms of the Annex Lease between the Plan and the Employer. It is represented that each of these guarantors under the Annex Lease, as an employee of the Employer, is a party in interest with respect to the Plan, pursuant to section 3(14)(H) of the Act.

It is represented that the proposed personal guarantees are in the interest of and protective of the Plan and the participants and beneficiaries of the Plan, because in the event of a default by the Employer, the Plan has recourse to the shareholders of the Employer for satisfaction of the Employer's obligations under the terms of the Annex Lease, including but not limited to the payment of rent for the initial ten (10) year term. The proposed personal guarantees are feasible in that these guarantors have a net worth in the aggregate in excess of $10,000,000, which is well in excess of the obligations of the Employer under the terms of the Annex Lease, including but not limited to the payment of rent for the initial ten (10) year term.

15. PBTC has been retained by the Plan to serve as the I/F for purposes of the transactions described in this proposed exemption. PBTC acknowledges and accepts its responsibilities as the I/F with respect to the proposed exemption. It is represented that PBTC will take whatever actions are necessary to protect the interests of the Plan.

In a letter dated November 8, 2011, Ms. Kelly C. White, Trust Officer for PBTC, represents that PBTC is independent and qualified to serve as the I/F for the Plan. PBTC is independent of the Employer and the LLC. It is represented that any fees for services rendered by PBTC in the past twelve (12) months to the Employer, to the LLC, and to the Plan, including services rendered as the I/F, will not exceed one percent (1%) of the revenue generated by PBTC in the past year.

PBTC is qualified to serve as the I/F for the Plan, because it has been providing private trust services since the 1991. Not only does PBTC provide a wide range of trust services, PBTC also has expertise with respect to qualified retirement plans and directed individual retirement accounts. As of June 30, 2011, PBTC had $12.5 billion in assets.

In agreeing to serve as the I/F for purposes of this proposed exemption, PBTC has enumerated a variety of duties that it has discharged or will discharge acting on behalf of the Plan. Among other things, the responsibilities of PBTC include: (a) Negotiating, reviewing, and approving the terms and conditions of the Purchase, and determining whether the Purchase in the interests of, and protective of, the Plan and its participants and beneficiaries; (b) negotiating, reviewing, and approving the terms and conditions of the Annex Lease, and determining whether such lease is in the interests of, and protective of, the Plan and its participants and beneficiaries; (c) determining that the terms and conditions of the Purchase are no less favorable to the Plan than those obtainable by the Plan under similar circumstances when negotiated at arm's length with unrelated third parties; (d) determining that the terms and conditions of the Annex Lease are no less favorable to the Plan than those obtainable by the Plan under similar circumstances when negotiated at arm's length with unrelated third parties; (e) verifying the appraised value of the Annex on the date of the Purchase and ascertaining that no fees are paid by the Plan in consummating the Purchase through the transfer of beneficial interests; (f) analyzing the terms of the Annex Lease to determine whether such lease provisions are reasonable and whether the rental rate is at, or better than, market value; (g) monitoring the collection of monthly rent and the transmittal of such rent to the Plan; (h) monitoring that the monthly rent is twelve percent (12%) of the appraised value of the Annex; (i) monitoring compliance by the Employer with the conditions of the exemption and with the terms and conditions of the Annex Lease, throughout the duration of such lease and each renewal of such lease, and assuming responsibility for legally enforcing payment of the rent and the proper performance of all other obligations of the Employer under the Annex Lease; (j) verifying that the aggregated fair market value of the Original Facility and the Annex does not exceed 20 percent (20%) of the total assets of the Plan at the time of the Purchase; (k) certifying annually that all rents for the year have been collected and all distributions made; and (l) providing quarterly statements.

In addition to the foregoing duties, PBTC, acting as the I/F, has reviewed the appraisal reports for both the Annex and the Original Facility that were prepared by Mr. Batis. In particular, PBTC has reviewed the appraisal methodologies utilized by Mr. Batis, the independent, qualified appraiser, and has determined that Mr. Batis' methodology and his conclusions concerning the fair market value of the Annex and the Original Facility are persuasive and sound. PBTC will also be responsible for reviewing the appraisal reports for the Annex, as submitted every 24 months to determine that the correct amount of rent is charged to the Employer.

In connection with its duties as the I/F acting on behalf of the Plan with respect to the transactions described in this proposed exemption, PBTC has the responsibility of resolving all other issues that might arise associated with the Plan's beneficial ownership of and leasing of the Annex in the best interests of the Plans participants and beneficiaries. Further, PBTC is responsible for any issues that may arise in connection with the co-ownership of the Annex by the Plan and the LLC.[7] In

[7] The Department notes that, in the event the proposed exemption is granted, the Purchase by the Plan of a partial beneficial ownership interest in the Annex from the LLC would result in a co-investing

this regard, PBTC represents that in the event of any actual or potential divergence of interests between the Plan and the LLC, as a consequence of their shared beneficial ownership interest in the Annex, PBTC in all events will act prudently and solely in the interest of the Plan with respect to all decisions pertaining to the acquisition, holding, management, and disposition of the Plan's beneficial ownership interest in the Annex. Further, to the extent that a conflict occurs, the I/F has, by its written agreement, the sole authority acting on behalf of the Plan to determine the resolution of any conflict that arises from the shared beneficial ownership of the Annex by the Plan and the LLC and that such determination shall be binding on the LLC.

In a letter, dated November 8, 2011, PBTC made additional representations concerning how it proposes to respond to potential issues that may emerge as a consequence of the shared beneficial co-ownership of the Annex between the Plan and the LLC in the following situations: (a) Issues associated with late payment or non-payment of rents, (b) issues associated with the possible sale of the Annex to third parties, (c) issues associated with the necessity of major repairs and the cost of repairs, (d) issues associated with any government action or eminent domain, and (e) other issues associated with joint ownership of the Annex and rental of the properties.

Specifically, it is represented that in the event of late payment or non-payment of rent by the Employer, PBTC will pursue its remedies under the Annex Lease to ensure payment, including the option of bringing a lawsuit against the Employer. In this regard, given that rent has been timely paid in the past, PBTC does not anticipate any issue arising in the near future.

If an opportunity arises to sell the Annex to an unrelated third party, PBTC will ensure that the Plan will receive the greater of the fair market value of the Plan's beneficial ownership interest in the Annex at the time of the sale or the original purchase price paid by the Plan to acquire such interest, so that the Plan will not lose principal. It is further represented that PBTC will undertake to obtain for the Plan the best price possible for the sale of the Plan's beneficial ownership interest in the Annex (provided that it would be in the interest of the Plan to sell such interest). In the event that repairs to the medical office building located on the Annex are required during the term of the Annex Lease, PBTC notes that the Employer, as lessee, would be responsible for the costs associated with such repairs, and that in the event of major repairs which are caused by fire or weather, the damage to the building would be covered by insurance. If the Employer is unable to bear the costs of repairs, or in the rare event some emergency threatens the integrity of the Annex, PBTC will take appropriate steps to protect the building. Depending on the circumstances, PBTC represents that it would first look to the principals of the Employer to pay their proportionate cost of such repairs.

In the event of an eminent domain taking of the Annex by a governmental entity, PBTC represents that it will take whatever actions are appropriate to protect the Plan and its participants and beneficiaries, including resisting the eminent domain action, if that course is reasonable.

As a condition of this exemption, immediately following the Purchase, the aggregate fair market value of the Plan's interest in the Combined Facility shall not exceed 20 percent (20%) of the fair market value of the total assets of the Plan. PBTC has concluded that this proposed limitation on the percentage of the Plan's assets that will be invested in the Combined Facility is protective of the Plan, because such a restriction will prevent an undue concentration of the Plan's assets in any particular investment.

With respect to the percentage of the Plan's assets involved in the proposed transaction, Mr. Batis, in his appraisal report, dated February 15, 2012, determined that the fair market value of the Annex was $4,600,000. A 52 percent (52%) beneficial ownership interest in the Annex would equal $2,392,000 ($4,600,000 times .52 equals $2,392,000). Accordingly, the fair market value of the Plan's 52 percent (52%) beneficial ownership interest in the Annex ($2,392,000) would constitute approximately 7.667 percent (7.667%) of the Plan's total assets of $31,197,086, as of December 31, 2011.

Further, in his appraisal report, dated February 15, 2012, Mr. Batis also determined that the fair market value of the Plan's 100 percent (100%) beneficial ownership interest in the Original Facility was $3,800,000. So, the fair market value of the Plan's 100 percent (100%) beneficial ownership in the Original Facility ($3,800,000) comprises an additional 12.180 percent (12.180%) of the value of the Plan's total assets $31,197,086, as of December 31, 2011. Accordingly, as a result of the proposed Purchase transaction, the Plan's aggregate beneficial ownership interest in the Combined Facility (7.667% and 12.180%) attributable to the Plan's interest in the Annex and the Original Facility, respectively) constitutes approximately 19.847 percent (19.847%) of the Plan's total assets, as of December 31, 2011.

After analyzing the terms and conditions of the proposed Purchase and the proposed Annex Lease, and based upon all of the financial and empirical data at its disposal, PBTC concluded, for the reasons discussed above, that the Purchase transaction and the Annex Lease transaction which are the subjects of this proposed exemption are in the interest of the Plan and its participants and beneficiaries, and protective of the rights of the participants and beneficiaries.

16. In summary, the applicant represents that the transactions, as described herein, satisfy the requirements of section 408(a) of the Act and section 4975(c)(2) of the Code because: (a) The Annex Lease represents an opportunity to generate a guaranteed cash flow to the Plan of twelve percent (12%) per annum, thereby providing a fixed rate of return to the individual accounts of participants and beneficiaries of the Plan and providing a more predictable method for ascertaining the retirement income available to such persons; (b) prior to

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arrangement between the Plan and the LLC, which in turn could give rise to conflicts of interest between these parties. In this regard, section 406(b)(1) of the Act prohibits the fiduciary of a plan from dealing with plan assets in his or her own interests or for his or her own account. In addition, section 406(b)(2) of the Act specifically prohibits plan fiduciaries in their individual or in any other capacity from acting in any transaction involving the plan on behalf of a party (or representing a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries. Accordingly, the Department notes that if, over time, the shared ownership of the Annex results in a divergence of interests between the Plan and the LLC, violations of section 406(b) of the Act could occur. In the event that such a divergence of interests develops between the parties, PBTC, acting as the I/F, would be required to take steps to eliminate the conflict of interest in order to avoid engaging in a prohibited transaction. *See* ERISA Advisory Opinion Letter 2000–10A (July 27, 2000). The Department further notes that it is not providing relief, herein, for any violations of the Act that may arise in connection with this co-investing arrangement. In addition, the Department notes that the general standards of fiduciary conduct under the Act would apply to the purchase by the Plan of a beneficial ownership interest in the Annex. Section 404(a)(1) of the Act requires, among other things, that a fiduciary discharge his or her duties with respect to a plan solely in the interest of the participants and beneficiaries, and with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims. Accordingly, PBTC, the I/F acting on behalf of the Plan, must act prudently and solely in the interest of the Plan and its participants and beneficiaries with respect to all decisions pertaining to the acquisition, holding, management, and disposition of the beneficial ownership interest in the Annex by the Plan.

entering into the subject transactions, PBTC, acting as I/F on behalf of the Plan, will negotiate, review, and approve the terms of the Purchase of the Annex by the Plan, as well as the terms of the Annex Lease; (c) PBTC will take appropriate steps to resolve such conflicts of interest and in all events acts prudently and solely in the interest of the Plan with respect to all decisions pertaining to the acquisition, holding, management, and disposition of the Plan's interest in the Annex; (d) to the extent that a conflict occurs, PBTC has, by its written agreement, the sole authority acting on behalf of the Plan to determine the resolution of any conflict that arises from the shared beneficial ownership of the Annex by the Plan and the LLC and that such determination shall be binding on the LLC; (e) the Purchase will be a one-time transaction for cash; (f) the terms and conditions of the Purchase and the Annex Lease will be no less favorable to the Plan than those obtainable by the Plan under similar circumstances when negotiated at arm's length with unrelated third parties; (g) prior to entering into the subject transactions, PBTC will determine that the Purchase and the Annex Lease are in the interest of, and protective of the Plan and of its participants and beneficiaries; (h) the acquisition price paid by the Plan for the 52 percent (52%) beneficial ownership interest in the Annex will not be more than the fair market value of such interest, as determined by an independent, qualified appraiser on the date of the Purchase; (i) as of the date of the Purchase, an independent, qualified appraiser will determine the fair market value of the Original Facility; (j) immediately following the Purchase, the fair market value of the Combined Facility will not exceed 20 percent (20%) of the Plan's total assets at the time of the Purchase; (k) the Plan will not incur any fees, any costs, any commissions, and will not incur any other charges and expenses as a result of engaging in the Purchase and as a result of engaging in the Annex Lease, other than the necessary and reasonable fees payable to the I/F and to the independent, qualified appraiser, respectively; (l) PBTC will monitor and enforce compliance with the conditions of this proposed exemption and will monitor and enforce compliance with the terms of the Annex Lease, throughout the initial term of such lease and any renewal of such lease, and is responsible for legally enforcing the payment of rent and the proper performance of all other obligations of the Employer under the terms of such lease; (m) the rent paid to the Plan by the Employer under the initial term of the Annex Lease, and the rent paid to the Plan by the Employer during each renewal of such lease, will be based upon twelve percent (12%) of the fair market value of the Annex, as established by an independent, qualified appraiser at the time of such initial term and at the time of each renewal; (n) the rent under the Annex Lease will be adjusted at the commencement of the second year of the term of such lease and adjusted every second year thereafter, based on twelve percent (12%) of the fair market value of the Annex, as established by an independent, qualified appraiser at the time of each such adjustment of rent; (o) if twelve percent (12%) of the fair market value of the Annex, established by such appraisal at the time of any such adjustment, is greater than the then current base rent under the Annex Lease, then the base rent will be revised to reflect the increase in fair market value of the Annex, as established by such appraisal; (p) if twelve percent (12%) of the fair market value of the Annex, established by such appraisal at the time of any such adjustment, is less than or equal to the then current base rent, then the base rent will remain unchanged; (q) the terms of the Annex Lease will be triple net; (r) prior to entering into any renewal of the Annex Lease, PBTC, acting as the I/F on behalf of the Plan, will be responsible for approving any renewal of the Annex Lease beyond the initial term of such lease; (s) PBTC will review the appraisals as submitted periodically to determine the correct rental amount is paid to the Plan; and (t) the guarantors have a net worth in the aggregate in excess of $10,000,000, which is well in excess of the obligations of the Employer under the terms of the Annex Lease, including but not limited to the payment of rent for the initial ten (10) year term.

Notice to Interested Persons

Those persons who may be interested in the publication in the **Federal Register** of the Notice of Proposed Exemption (the Notice) include participants of the Plan and former participants of the Plan with account balances.

It is represented that notification will be provided to each of these interested persons by first class mail, within fifteen (15) calendar days of the date of the publication of the Notice in the **Federal Register**. Such mailing will contain a copy of the Notice, as it appears in the **Federal Register** on the date of publication, plus a copy of the Supplemental Statement, as required, pursuant to 29 CFR 2570.43(b)(2), which will advise such interested persons of their right to comment and to request a hearing.

The Department must receive all written comments and requests for a hearing no later than forty-five (45) days from the date of the publication of the Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department at (202) 693–8551. (This is not a toll-free number).

El Paso Corporation Retirement Savings Plan (the Plan) Located in Houston, Texas

[Application No. D–11710]

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 part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).

Section I: Transactions

If the proposed exemption is granted the restrictions of sections 406(a)(1)(A), 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a)(1)(A) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) and 4975(c)(1)(E) of the Code,[8] shall not apply, in connection with a merger transaction (the Merger) between El Paso Corporation (El Paso) and Kinder Morgan, Inc. (KMI):

(a) To the acquisition by the individually directed accounts of the participants of the Plan (the Invested Participants) of certain publicly traded warrant(s) (the Warrant(s)) issued by KMI, which will become a party in interest with respect to the Plan after the Merger; and

(b) to the holding of the Warrants by the accounts in the Plan of the Invested Participants; provided that the conditions, as set forth in Section II of this proposed exemption, are satisfied at the time of the acquisition of the Warrants by the accounts in the Plan of such Invested Participants and throughout the duration of the holding of the Warrants in the accounts of such Invested Participants.

Section II: Conditions

The relief provided in this exemption is conditioned upon adherence to the

[8] For purposes of this proposed exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

material facts and representations described, herein, and as set forth in the application file and upon compliance with the conditions, as set forth in this proposed exemption.

(a) The Warrants will be acquired by the individually-directed accounts of the Invested Participants, all or a portion of whose accounts in the Plan hold the common stock of El Paso (the EP Stock);

(b) The exchange by the shareholders, including the Invested Participants, of the EP Stock for Warrants will result from an independent act of El Paso and KMI, as corporate entities in connection with the Merger, and will occur automatically without any action or control on the part of such shareholders, including the Invested Participants;

(c) The acquisition of the Warrants by the Invested Participants will occur in connection with the Merger, and such Warrants will be made available on the same terms to all shareholders of the EP Stock, including the Invested Participants;

(d) The decisions with regard to the holding and disposition of the Warrants will be made by each of the Invested Participants in accordance with the provisions under the Plan for individually-directed accounts;

(e) The Warrants allocated to the accounts of the Invested Participants in the Plan may be exercised or sold at any time by such Invested Participants giving investment directions in accordance with the provisions of the Plan;

(f) The Invested Participants will not pay any fees or commissions in connection with the acquisition and holding of the Warrants, nor will the Invested Participants pay any fees on the exercise of the Warrants; and

(g) Prior to entering into the Merger, El Paso will obtain all necessary approvals from any relevant state agencies and federal agencies, including, but not limited to the U.S. Department of Justice Antitrust Division, the Federal Energy Regulatory Commission, the Securities and Exchange Commission (SEC), and the Federal Trade Commission.

Summary of Facts and Representations

1. The Plan and the trust maintained as a part thereof are intended to qualify under sections 401(a) and 501(a) of the Code. The Plan is a defined contribution plan. The Plan is designated as a profit sharing plan under section 401(a)(27) of the Code; however, contributions are not dependent on whether any participating employer has current or accumulated profits. The Plan includes participant elective deferrals under section 401(k) of the Code and matching contribution under section 401(m) of the Code. The fair market value of the total assets of the Plan, as of October 31, 2011, was $973,420,169.

As of October 31, 2011 there were 9,646 participants and beneficiaries in the Plan. The Plan provides that a participant may direct the investment of the assets in his account. The Plan is intended to be a plan as described in section 404(c) of the Act.

2. The El Paso Corporation Retirement Saving Plan Committee and its members (the Committee) have discretion with respect to selecting the investment alternatives under the terms of the Plan. Further, the Committee has the responsibility and authority with respect to the management, acquisition, disposition, or investment of the assets of the Plan to the extent that such responsibility and authority is not delegated to participants, investment managers, or the trustee of the Plan. The Committee is the named fiduciary for the Plan and has general responsibility for the administration of the Plan and for reviewing the trustee. As such, the Committee is a party in interest with respect to the Plan, pursuant to section 3(14)(A) of the Act.

JPMorgan Chase Bank, National Association is the trustee of the Plan, and as such is a party in interest with respect to the Plan, pursuant to section 3(14)(A) of the Act. JPMorgan Retirement Plan Services LLC is the recordkeeper for the Plan, and as such is a party in interest as a service provider with respect to the Plan, pursuant to section 3(14)(B) of the Act.

3. El Paso, a Delaware corporation, owns a North American interstate natural gas pipeline system, exploration and production companies, and an emerging midstream business. El Paso is the sponsor of the Plan in which its employees and the employees of its subsidiaries participate. As an employer any of whose employees are covered by the Plan, El Paso is a party in interest to the Plan, pursuant to section 3(14)(C) of the Act. The authorized capital stock of El Paso consists of 1,500,000,000 shares of EP Stock and 50,000,000 shares of preferred stock, par value $.01 per share.

4. El Paso, in its capacity as the sponsor of the Plan, has amended the terms of the Plan to provide the EP Stock as an investment option under the Plan. The Plan provides that a participant may elect to invest assets held in his or her account in this investment option. All assets invested in this investment option are allocated to such individual participant's account. The EP Stock is available under the EP Stock investment option, subject to certain limits on the percentage of new contributions and the percentage of the existing account balances which may be invested in the EP Stock. It is represented that the Plan held in the aggregate approximately 9,905,558 shares of EP Stock, as of December 31, 2010, which had a fair market value of $136,102,369, based on a price per share of $13.74, as of December 31, 2010. It is represented that the Plan held in the aggregate approximately 9,239,616 shares of EP Stock, as of October 31, 2011, which had a fair market value of $230,990,400, based on a price per share of $25.00, as of October 31, 2011. The fair market value of the EP Stock held in the accounts of Invested Participants in the Plan in the aggregate constitutes approximately 15 percent (15%), as of December 31, 2010, and approximately 23.74 percent (23.74%), as of October 31, 2011, of the fair market value of the total assets of the Plan. It is represented that the percentage of each participant's account invested in the EP Stock varies according to participant investment elections and changes in the value of the EP Stock relative to other investment options.

5. It is represented that the EP Stock is a ''qualifying employer security,'' as defined under section 407(d)(5) of the Act and 4975(e) of the Code. The Stock is listed for quotation on the New York Stock Exchange under the symbol ''EP.''

6. The application for exemption was filed on behalf of El Paso and its employees, officers, directors and 10 percent (10%) or more shareholders, the Committee, and the Plan (collectively, the Applicants). The Applicants have requested an exemption with respect to the transactions which are the subject of this proposed exemption. In this regard, relief has been requested: (a) For the acquisition of the Warrants by accounts of the Invested Participants in the Plan in connection with the Merger; and (b) for the holding of the Warrants by the accounts of the Invested Participants in the Plan.

It is represented that the subject transactions have not yet been consummated. It is represented that KMI and El Paso are merging for business reasons. It is represented that the combined enterprise will represent the largest natural gas pipeline network in the United States, the largest independent transporter of petroleum products in the United States, the largest transporter of carbon dioxide in the United States, and the largest independent terminal owner/operator in the United States.

The Merger has been approved by the Board of Directors of El Paso and KMI.

In this regard, an Agreement and Plan of Merger, dated as of October 16, 2011, was entered into among KMI, Sherpa Merger Sub, Inc., Sherpa Acquisition LLC, Sirius Holdings Merger Corporation, Sirius Merger Corporation, and El Paso.

KMI has filed a Registration Statement with the SEC on Form S–4 in connection with the proposed transactions contemplated by the Merger, including a definitive Information Statement/Prospectus of KMI and a definitive Proxy Statement of El Paso. The Registration Statement was declared effective by the SEC on January 30, 2012. Post-effective amendments to the Registration Statement were filed on February 27, 2012, and on March 1, 2012. KMI and El Paso mailed the definitive Information Statement/ Prospectus of KMI and the definitive Proxy Statement of El Paso to their respective shareholders on or about January 31, 2012. Shareholders of both KMI and El Paso have now approved the transaction. In this regard, KMI's stockholder meeting was held on March 2, 2012, and El Paso's stockholder meeting was held on March 9, 2012. On March 9, 2011, the shareholders of El Paso overwhelmingly approved the Merger. Approximately 79 percent (79%) of all the shares of EP Stock were voted and more than 95 percent (95%) of those shares were voted in favor of the Merger. The Merger is expected to close in the second quarter of 2012, subject to the parties to the Merger obtaining the customary regulatory approvals.

7. It is represented that the Warrants to be acquired by the Plan in connection with the Merger will satisfy the definition of ''employer securities,'' pursuant to section 407(d)(1) of the Act, because such Warrants will be securities issued by KMI, which, as a result of the Merger, will become the parent company of El Paso. However, as the Warrants are not shares of stock or marketable obligations, or interests in a publicly-traded partnership, such Warrants do not meet the definition of ''qualifying employer securities,'' as set forth in section 407(d)(5) of the Act. In this regard, the subject transactions will constitute an acquisition and holding on behalf of the Plan of Warrants which are ''employer securities,'' but which are not ''qualifying employer securities,'' in violation of section 407(a) of the Act. Accordingly, the Applicants have requested relief from sections 406(a)(1)(A), 406(a)(1)(E), 406(a)(2), and 407(a)(1)(A) of the Act.

The Applicants also seek exemptive relief from section 406(b)(1) and 406(b)(2) of the Act with regard to conflicts of interest which could arise under the facts and circumstances, as set forth, herein and in the application file.

8. It is represented that the decision to enter into the Merger will be made by El Paso and KMI in their corporate capacities. Under the terms of the Merger, El Paso will become a wholly-owned subsidiary of KMI. According to representations in KMI's Form 10–Q, the total purchase price to be paid by KMI for the acquisition of El Paso is expected to be approximately $38 billion.

9. KMI will issue to each shareholder of EP Stock, including the Invested Participants, for each share of EP Stock held by each such shareholder either: (a) $25.91 in cash without interest; or (b) 0.9635 of a share of the Class P common stock of KMI (the Class P Stock)(which, fractional share had a rounded value of $31.20, based on the closing price of the Class P Stock at $32.38, as of January 27, 2012); or (c) $14.65 in cash without interest, plus 0.4187 of a share of the Class P Stock (which, fractional share had a rounded value of $13.56, based on the closing price of the Class P Stock at $32.38, as of January 27, 2012). The closing price of the EP Stock, as of January 27, 2012 was $26.54.

Whichever option each of the shareholders of the EP Stock, including the Invested Participants, elect, is subject to certain conditions applicable to all such shareholders. If any of the shareholders of the EP Stock, including any of the Invested Participants, make no election, such shareholders will be deemed to have elected to receive option (c), as described above, the Class P Stock and cash. All elections will be subject to proration.

Regardless of which election is made by the shareholders of the EP Stock, including the Invested Participants, and even if no election is made by such shareholders, 0.640 of a Warrant will be issued with respect to each share of EP Stock held by such shareholders, including the Invested Participants, on the closing date of the Merger. It is represented that each such fraction of a Warrant has an assumed value of $0.96. Warrants will be allocated to the accounts of the Invested Participants whose accounts held EP Stock on the closing date of the Merger.

10. It is represented that the Class P Stock is publicly traded on the New York Stock Exchange. The authorized capital stock of KMI consists of 2,819,462,927 shares of which 10,000,000 shares are preferred stock (par value $0.01 per share) and 2,809,462,927 shares are common stock (par value $0.01 per share). At the close of business on October 13, 2011, 110,898,898 shares of Class P Stock were issued and outstanding, and no shares of Class P Stock were held by KMI in its treasury.

It is represented that any Class P Stock acquired as a result of the Merger by the Invested Participants will become a ''qualifying employer security,'' as defined under section 407(d)(5) of the Act and section 4975(e) of the Code, because the Class P Stock, will after the Merger, be a security issued by KMI, the parent company of El Paso.[9]

11. It is represented that the shareholders, including the Invested Participants, will receive the Warrants and other consideration automatically upon the closing date of the Merger. In this regard, it is represented that the Invested Participants and the Committee have no control over the receipt of the Warrants. However, prior to the closing date of the Merger, each of the Invested Participants has the right to transfer the assets in his or her account in the Plan which is invested in the EP Stock to any other investment option offered under the Plan and thereby, avoid receiving the Warrants.

12. It is represented that the Warrants will be issued pursuant to a certain warrant agreement (the Warrant Agreement) between KMI and a warrant agent (the Warrant Agent). It is represented that the Warrant Agent is Computershare Trust Company, N.A. and is an unrelated party to El Paso and KMI. The Warrant Agreement provides that the Warrants will be registered under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, and will be registered under the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

It is represented that the Warrants will be issued to the Invested Participants on the same basis that such Warrants will be issued to all other shareholders of the EP Stock. Pursuant to the terms of the Warrant Agreement, each of the shareholders of the EP Stock, including each of the Invested Participants, for each Warrant held will be able to purchase one share of Class P Stock (par value $0.01 per share) at the exercise price of $40 per share (the Exercise Price) during the period beginning on the date of the Warrant Agreement and ending on the five-year anniversary of the date of the Warrant Agreement (the Five Year Term).

13. The Warrants may be exercised in whole or in part by presentation of a

[9] The Department, herein, is not providing any relief with respect to the acquisition and holding by the Invested Participants of the Class P Stock.

Warrant along with a Notice of Exercise to the Warrant Agent.[10] No fractional shares of Class P Stock will be issued upon the exercise of any Warrant, but KMI will pay the cash value of such fractional shares equal to the market price of the Class P Stock on the trading day on which such Warrants are exercised. Payment of the Exercise Price can be made at the option of the holder of the Warrants either: (a) In cash; (b) by delivering a certified or official bank check payable to the Warrant Agent; or (c) by delivering a written direction to the Warrant Agent that the holder desires to exercise Warrants, pursuant to a ''cashless exercise.''

14. In addition to the right to exercise the Warrants, the Warrants may be sold, assigned, transferred, pledged, encumbered, or in any other manner transferred or disposed of, in whole or in part in accordance with the terms of the Warrant Agreement and all applicable laws. In this regard, Invested Participants will have the right to sell the Warrants allocated to their accounts in the Plan at any time and from time to time during the Five Year Term, in the same manner as other holders of the Warrants.[11] It is represented that the Warrants will be listed on the New York Stock Exchange, the NASDAQ Stock Exchange, or another stock exchange reasonably agreed to by KMI and El Paso. Proceeds from the sale of the Warrants by Invested Participants may be directed into any other investment option under the Plan.

15. It is represented that the Committee will not take any action to cause the Invested Participants to exercise or sell the Warrants. If an Invested Participant takes no action either to exercise or sell the Warrants, then such Warrants will expire at the end of the Five Year Term.

16. It is represented that one of the available investment options under the Plan will be a newly established limited brokerage window. The limited brokerage window will be a self-directed brokerage account that will allow Invested Participants to sell or exercise Warrants and direct any cash proceeds into another investment option under the Plan. The Warrants and the Class P Stock will be the only securities traded through the limited brokerage window.

Brokerage services to the limited brokerage window are offered by Chase Investment Services Corp. (CISC). It is represented that CISC is a member of Financial Industry Regulatory Authority. The clearing and custody services are provided by J.P. Morgan Clearing Corp. (JPMCC). Both CISC and JPMCC are members of the Securities Investor Protection Corporation. Both CISC and JPMCC are separately registered broker dealers. Both CISC and JPMCC are affiliates of JPMorgan Chase and Company. CISC and JPMCC, are parties in interest, as service providers to the Plan, pursuant to section 3(14)(B) of the Act. It is represented that CISC, and JPMCC are unrelated to KMI and to El Paso.

The brokerage arrangement is a prohibited transaction under section 406(a) of the Act, because it involves the furnishing of services between a party in interest (*i.e.,* CISC), and the Plan and the use of Plan assets to pay for those services. The Applicants represent that the brokerage arrangement does not give rise to a prohibited transaction under section 406(b) of the Act, because the Plan fiduciaries have contracted for the brokerage service to be provided to the Plan and do not exercise discretion with respect to the brokerage service or the fee.[12] Further, the Applicants represent that CISC has no discretion with respect to the sale or exercise of the Warrants, and thus, will not be a fiduciary with respect to the Plan, in that Warrants held in the limited brokerage account will be exercised or sold only at the direction of the Invested Participants.

When an Invested Participant elects to sell or exercise a Warrant through the limited brokerage window, it is represented that CISC will be acting as an agent and will not engage in any principal transactions. In this regard, CISC will send the order to JP Morgan Securities, LLC (JPMS). JPMS is a party in interest, as a service provider to the Plan, pursuant to section 3(14)(B) of the Act. It is represented that JPMS is unrelated to KMI and to El Paso.

The Warrants deposited in the accounts of Invested Participants in the Plan will be allocated to the limited brokerage window. The Invested Participants will not pay any fees or commissions in connection with the acquisition or holding of the Warrants. The Warrants will be held by the Plan from the closing date of the Merger until each of the Invested Participants disposes of the Warrants allocated to his or her account by exercising the Warrants or by directing the sale of the Warrants through the limited brokerage window.

Upon the sale of Warrants through the limited brokerage window, all the cash proceeds will be swept automatically into a money market account on a daily basis; and subsequently, invested in another Plan investment option, as directed by an Invested Participant. The sweep account is maintained by CISC; however, CISC will have no discretion with respect to the amount or timing of any amount swept.[13]

Upon the sale of a Warrant, a fee will be deducted from the proceeds of the transaction, in the same manner that a fee would be deducted in connection with the sale of EP Stock prior to the Merger. If an Invested Participant uses the self-service options available under the Plan for changing the Plan investment allocation, the fee for the sale of a Warrant will be $9.99 for up to 1,000 Warrants and $0.02 per Warrant thereafter. If an Invested Participant requests a CISC representative to assist with the transaction, the fee will be $55.00 for the sale of up to 1,000 Warrants and $0.02 per Warrant thereafter.[14]

[10] With regard to the exercise of the Warrants, it is represented that the Invested Participants will rely on the relief provided by the statutory exemption, pursuant to section 408(e) of the Act. The Department is offering no view, as to whether the requirements of the statutory exemption provided in section 408(e) of the Act will be satisfied. Further, the Department, herein, is not providing any relief with respect to the exercise of the Warrants.

[11] Pursuant to section 1.21 of the Warrant Agreement, KMI has the right, except as limited by law, or other agreements to purchase or otherwise acquire Warrants at such times, in such manner, and for such consideration as it and the applicable holder may deem appropriate. The Department, herein, is not providing any exemptive relief with respect to the purchase nor with respect to the acquisition by KMI of any Warrants from the Invested Participants in the Plan, as holders of such Warrants.

[12] The Applicants have not requested exemptive relief with respect to the provision of brokerage services by CISC to the Plan. In this regard, the Applicants rely on the relief provided by section 408(b)(2) of the Act for services rendered to a plan, if the services are necessary, the contract or arrangement for such services is reasonable, and only reasonable compensation is paid for such services. The Department is offering no relief, herein, for the provision of brokerage services by CISC to the Plan and is providing no view, as to whether the requirements of the statutory exemption provided in section 408(b)(2) of the Act will be satisfied with respect to the provision of brokerage services by CISC to the Plan.

[13] The Applicants have not requested exemptive relief with respect to the sweep account. In this regard, the Applicants maintain that the sweep services are provided to the Plan by CISC pursuant to a service agreement which satisfies section 408(b)(2) of the Act. The Applicants represent that neither Plan fiduciaries nor CISC exercise discretion with respect to such sweep services. The Department is offering no view, as to whether the requirements of the statutory exemption provided in section 408(b)(2) of the Act will be satisfied. Further, the Department, herein, is not providing any relief with respect to the provision of sweep services by CISC to the Plan.

[14] The Applicants have not requested exemptive relief with respect to the receipt of a fee by CISC for the provision of brokerage services to the Plan. In this regard, the Applicants rely on the relief provided by section 408(b)(2) of the Act for payment by a plan to a party in interest for services rendered to such plan, if the services are necessary, the contract or arrangement for such services is

Continued

Upon exercise of a Warrant, the shares of the Class P Stock for which such Warrant was exercised will be credited to the Invested Participant's account and held in the limited brokerage window until such Invested Participant makes an investment change election. No fees will be charged in connection with the exercise of a Warrant.

It is represented that prior to the closing on the Merger, El Paso intends to amend the Plan to prohibit any participants in the Plan from acquiring additional Warrants through the Plan after the Merger closes. It is represented that the decision to amend the Plan to include limitations on the investments is a settlor function that does not involve Plan fiduciaries. It is represented that the decision by El Paso to limit the acquisition of additional Warrants by the Plan was in part to encourage participants to diversify the investments in such participants' individually-directed accounts in the Plan.

17. The Applicants represent that the proposed exemption is administratively feasible. In this regard, the acquisition and holding of the Warrants by the accounts of the Invested Participants in the Plan will be a one-time transaction that involves an automatic distribution of such Warrants to all such Invested Participants. It is represented that it is relatively common in stock transactions, such as the anticipated transaction reflected in the Merger, to include stock warrants as part of the consideration for the stock of the target corporation.

18. The Applicants represent that the transactions which are the subject of this proposed exemption are in the interest of the Plan, because the subject transactions represent a valuable opportunity to the accounts of the Invested Participants in the Plan to realize the potential value of the Merger. If the exemption is not granted, the Invested Participants would be deprived of investment returns that could be realized, if the Warrants were to be exercised or sold during the Five Year Term.

19. The Applicants also represent that the proposed exemption is in the interest of the accounts in the Plan of the Invested Participants. In this regard, the Invested Participants may select the most advantageous time to exercise and/or to liquidate the Warrants.

20. The Applicants further represent that the proposed exemption provides sufficient safeguards for the protection of the Plan and its participants and beneficiaries. In this regard, the acquisition and holding of the Warrants will occur automatically, as a result of the Merger. In addition, as the Warrants will be publicly-traded securities, the fair market value of the Warrants, if the Invested Participants choose to sell such Warrants, will be determined by the market.

21. In summary, the Applicants represent that the subject transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The Warrants will be acquired by the individually-directed accounts of the Invested Participants, all or a portion of whose accounts in the Plan hold the EP Stock;

(b) The exchange by the shareholders, including the Invested Participants, of the EP Stock for the Warrants will result from an independent act of El Paso and KMI, as corporate entities in connection with the Merger, and will occur automatically without any action or control on the part of such shareholders, including the Invested Participants;

(c) The acquisition of the Warrants by the Invested Participants will occur in connection with the Merger, and such Warrants will be made available on the same terms to all shareholders of the EP Stock, including the Invested Participants;

(d) The decisions with regard to the holding and disposition of the Warrants will be made by each of the Invested Participants in accordance with the provisions under the Plan for individually-directed accounts;

(e) The Warrants allocated to the accounts of the Invested Participants in the Plan may be exercised or sold at any time by such Invested Participants giving investment directions in accordance with the provisions of the Plan;

(f) The Invested Participants will not pay any fees or commissions in connection with the acquisition and holding of the Warrants, nor will the Invested Participants pay any fees on the exercise of the Warrants; and

(g) Prior to entering into the Merger, El Paso will obtain all necessary approvals from any relevant state agencies and federal agencies, including, but not limited to the U.S. Department of Justice Antitrust Division, the Federal Energy Regulatory Commission, the SEC, and the Federal Trade Commission.

Notice to Interested Persons

Only those participants and beneficiaries whose accounts are invested in EP Stock on the closing date of the Merger will be affected by the subject transactions. Because participants may change their investment directions daily, it is represented that it is not possible to determine the exact number of affected participants and beneficiaries in advance of the closing date of the Merger.

Accordingly, the Applicants represent that, if the Merger closes before the Notice to Interested Persons is prepared and mailed, El Paso will provide notification of the publication in the **Federal Register** of the Notice of Proposed Exemption (the Notice) to all participants, beneficiaries, and alternate payees with account balances in the Plan, whose account (or portion thereof) was invested in the EP Stock on the closing date of the Merger. The Applicants further represent that if the Merger closes after the Notice to Interested Persons is prepared and mailed, El Paso will provide notification of the publication in the **Federal Register** of the Notice to all participants, beneficiaries, and alternate payees who have an account in the Plan at the time the Notice to Interested Persons is prepared.

It is represented that all such interested persons will be notified of the publication of the Notice by first class mail, to each such interested person's most recent address maintained in the Plan administrator's records for each such interested person, within thirty (30) days of publication of the Notice in the **Federal Register**. Such mailing will contain a copy of the Notice, as it appears in the **Federal Register** on the date of publication, plus a copy of the Supplemental Statement, as required, pursuant to 29 CFR 2570.43(b)(2), which will advise all interested persons of their right to comment and to request a hearing.

A11 written comments and/or requests for a hearing must be received by the Department from interested persons within 60 days of the publication of this proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena C. Le Blanc of the Department, telephone (202) 693–8540. (This is not a toll-free number.)

reasonable, and only reasonable compensation is paid for such services. The Department is offering no relief, herein, for the receipt of a fee by CISC for the provision of brokerage services to the Plan, nor is the Department providing any relief for the receipt of compensation for the provision of clearing or custody services by JPMCC or for the receipt of compensation for the execution of the order by JPMS. Further, the Department, herein, is offering no view, as to whether the requirements of the statutory exemption provided in section 408(b)(2) of the Act will be satisfied with respect to the receipt of fees by CISC, JPMCC, and JPMS.

Ed Laur Defined Benefit Plan (the Plan) Located in Amarillo, TX

[Application No. D–11714]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (76 FR 66637, 66644, October 27, 2011). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code,[15] shall not apply to the proposed cash sale by the Plan to Ed Laur (Mr. Laur) of shares of stock (the Stock) of EnergyNet.com (EnergyNet); provided that:

(a) The sale of the Stock by the Plan to Mr. Laur is a one-time transaction in which the Plan receives cash;

(b) As the result of the sale, the Plan receives the fair market value of the Stock, as determined by the CFO of EnergyNet, as of the most recent valuation of such Stock;

(c) The Plan pays no commissions or fees in regard to the transaction; and

(d) The terms of the sale are no less favorable to the Plan than those the Plan would have received in similar circumstances when negotiated at arm's length with unrelated third parties.

Summary of Facts and Representations

1. The Plan is a defined benefit plan established in 2001. The Plan is sponsored by Ed Laur (Mr. Laur), a sole proprietor. As of December 31, 2010, the Plan had $335,442.64 in assets. It is represented that the estimated value of the Plan's assets, as of December 31, 2011, is $350,000. Mr. Laur and his wife, Mrs. Laur are the only participants in the Plan. It is represented that the benefit accruals under the Plan were frozen in 2006 and currently remain frozen.

2. Mr. Laur is the trustee and primary fiduciary with respect to the Plan. Mr. Laur works as a consultant in the grain industry.

3. EnergyNet is a local Amarillo, Texas corporation. EnergyNet is not traded on any exchange, but is traded locally in the Amarillo, Texas area. It is represented that there is no relationship between Mr. Laur and the ownership of EnergyNet. It is represented that EnergyNet in 2011 converted from a C-corporation to an S-corporation status.

4. In 2002, 2005, 2007, and 2010, the Plan purchased the Stock of EnergyNet for investment purposes from EnergyNet. It is represented that the Plan purchased a total of 161,012 shares of the Stock at an aggregate cost of $39,082.40. It is represented that the estimated amount of income received by the Plan from EnergyNet through December 31, 2011 is $5,000. It is further represented that the Plan did not incur any expenses as a result of the holding of the Stock through December 31, 2011. It is represented that, as of December 31, 2011, the Stock held by the Plan had an aggregate value of $40,253. It is represented that the value of the Stock represents slightly less than 12% of the total fair market value of the assets of the Plan.

5. As a result of the conversion in 2011 of EnergyNet from a ''C-Corporation'' to an ''S-Corporation,'' it is represented that the Plan became a ''tax payer'' with respect to the income pass-through from EnergyNet to the Plan. As a result of the conversion, it is represented that the Plan will have received, pursuant to section 512(e) of the Code,[16] unrelated business taxable income (UBTI) on the Plan's share of the 2011 dividends from EnergyNet in the amount of $11,000. The tax on such amount at a rate of 25.7 percent (25.7%) is represented to be $2,827 ($11,000 × .257 = $2,827). In addition, it is represented that the Plan will incur the cost of preparing and filing Form 990–T.

6. Mr. Laur proposes to purchase the Stock from the Plan at a purchase price which is the current fair market value of the Stock.

7. Mr. Laur represents that the proposed transaction is feasible in that it will be a one-time transaction in which the Plan will receive cash. In addition, Mr. Laur will bear any and all costs associated with the subject transaction and the filing of the application for exemption.

8. Mr. Laur represents that the proposed transaction is in the interest of the Plan, in that the Plan will receive in cash the fair market value of the Stock. Further, it is represented that as the conversion of EnergyNet from a ''C-Corporation'' to an ''S-Corporation'' was unforeseen when the Stock was purchased, it is represented that the Plan never intended to become subject to UBTI. Accordingly, it is represented that it would be in the interest of the Plan to avoid incurring UBTI on the 2011 dividends from EnergyNet and also to avoid the cost of preparing and filing Form 990–T. Further, the proposed exemption is in the interest of the Plan in that the Plan will pay no commissions or fees with regard to the subject transaction.

9. It is represented that the proposed transaction has sufficient safeguards in place for the protection of the Plan and its participants and beneficiaries. In this regard, the fair market value of the Stock will be determined, as of the most recent valuation date, by Jim Black (Mr. Black), the CFO of EnergyNet. It is represented that Mr. Black at the end of each calendar year provides a written stock value to Mr. Laur in Mr. Laur's capacity as the trustee of the Plan. It is represented that based on a letter from Mr. Black, the aggregate value of the 161,012 shares of the Stock held by the Plan is $40,253, as of December 31, 2011.

10. In summary, Mr. Laur represents that the proposed transaction satisfies the criteria of section 4975(c)(2) of the Code because:

(a) The sale of the Stock by the Plan to Mr. Laur will be a one-time transaction in which the Plan will receive cash;

(b) As the result of the sale, the Plan will receive the fair market value of the Stock, as determined by the CFO of EnergyNet, as of the most recent valuation of such Stock;

(c) The Plan will pay no commissions or fees in regard to the transaction; and

(d) The terms of the sale will be no less favorable to the Plan than those the Plan would have received in similar circumstances when negotiated at arm's length with unrelated third parties.

Notice to Interested Persons

As Mr. Laur and Mrs. Laur, his wife, are the only participants in the Plan, it has been determined that there is no need to distribute the Notice of Proposed Exemption (the Notice) to interested persons. Therefore, comments and requests for a hearing must be received by the Department within thirty (30) days of the date of publication of this Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department,

[15] Pursuant to 29 CFR 2510.3–3(b) of the Department's regulations, there is no jurisdiction with respect to the Plan under Title I of the Act. However, there is jurisdiction under Title II of the Act, pursuant to section 4975 of the Code.

[16] Under special rules applicable to ''S-Corporations,'' section 512(e) of the Code states that if an organization described in section 1361(c)(6) holds stock in an ''S-Corporation,'' such interest shall be treated as an interest in an unrelated trade or business, and all items of income, loss, or deduction and any gain or loss on disposition of the stock in the ''S-Corporation'' shall be taken into account in computing the unrelated business taxable income of such organization.

Section 1361(c)(6) of the Code states that an organization which is described in section 401(a) or 501(c)(3), and which is exempt from taxation under section 501(a), such as the Plan, may be a shareholder in an ''S-Corporation.''

telephone (202) 693–8551. (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 25th day of May, 2012.

Lyssa E. Hall,

Acting Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2012–13264 Filed 5–31–12; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0121]

Proposed Extension of Existing Information Collection; Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Department of Labor conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration is soliciting comments concerning the extension of the information collection for 30 CFR 56.3203, 57.3203, and 75.204(a) and (f)(6). OMB last approved this information collection request on September 28, 2009. The package expires on September 30, 2012.

DATES: All comments must be postmarked or received by midnight Eastern Time on July 31, 2012.

ADDRESSES: Comments concerning the information collection requirements of this notice must be clearly identified with ''OMB 1219–0121'' and sent to the Mine Safety and Health Administration (MSHA). Comments may be sent by any of the methods listed below.

- *Federal E–Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Facsimile:* 202–693–9441, include ''OMB 1219–0121'' in the subject line of the message.
- *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939. For hand delivery, sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Greg Moxness, Chief, Economic Analysis Division, Office of Standards, Regulations, and Variances, MSHA, at *moxness.greg@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Accidents involving falls of roof, face, and rib in underground metal, nonmetal, and coal mines or falls of highwall in surface metal and nonmetal mines, are among the leading causes of injuries and deaths. Prevention or control of falls of roof, face, and rib is uniquely difficult because of the variety of conditions encountered in mines that can affect the stability of various types of strata and the changing nature of the forces affecting ground stability at any given operation at any given time. Roof and rock bolts and accessories are an integral part of ground control systems at these mines and are used to prevent the fall of roof, face, and rib. Advancements in technology of roof and rock bolts and accessories have aided in reducing the hazards associated with falls of roof, face, and rib. This information collection addresses the recordkeeping associated with:

§ 56.3203	Rock fixtures
§ 57.3203	Rock fixtures
§ 75.204(a) & (f)(6)	Roof bolting

II. Desired Focus of Comments

The Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to safety standards for roof bolts in surface and underground metal and nonmetal mines and underground coal mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of the MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Address the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses), to minimize the burden of the collection of information on those who are to respond.

The public may examine publicly available documents, including the

public comment version of the supporting statement, at MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939. OMB clearance requests are available on MSHA's Web site at *http://www.msha.gov* under ''Rules & Regs'' on the right side of the screen by selecting *Information Collections Requests, Paperwork Reduction Act Supporting Statements.* The document will be available on MSHA's Web site for 60 days after the publication date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because comments will not be edited to remove any identifying or contact information, MSHA cautions the commenter against including any information in the submission that should not be publicly disclosed. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

The information obtained from mine operators is used by MSHA during inspections to determine compliance with safety standards related to the integrity of roof bolts. MSHA has updated the data for the number of respondents and responses, and the total burden hours and burden costs supporting this information collection extension request.

Summary

Type of Review: Extension.
Agency: Mine Safety and Health Administration.
Title: Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines.
OMB Number: 1219–0121.
Affected Public: Business or other for-profit. Cite/Reference/Form/etc. 30 CFR 56.3203, 57.3203, and 75.204.
Total Number of Respondents: 1,215.
Frequency: Various.
Total Number of Responses: 129,060.
Total Burden Hours: 785 hours.
Total Annual Cost Burden: $0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Authority: 44 U.S.C. 3506(c)(2)(A).

Dated: May 25, 2012.

George F. Triebsch,

Certifying Officer.

[FR Doc. 2012–13228 Filed 5–31–12; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 12–039]

NASA Advisory Council; Aeronautics Committee; UAS Subcommittee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Unmanned Aircraft Systems (UAS) Subcommittee of the Aeronautics Committee of the NASA Advisory Council. The meeting will be held for the purpose of soliciting, from the aeronautics community and other persons, research and technical information relevant to program planning.

DATES: Wednesday, June 27, 2012, 8 a.m. to 4:30 p.m., and Thursday, June 28, 2012, 8 a.m. to 3 p.m., Local Time.

ADDRESSES: This meeting will take place at NASA Headquarters, 300 E Street SW., Room 6B42, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Brenda L. Mulac, Executive Secretary for the UAS Subcommittee of the Aeronautics Committee, National Aeronautics and Space Administration Headquarters, Washington, DC 20546, (202) 358–1578, or *brenda.l.mulac@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. Any person interested in participating in the meeting by Webex and telephone should contact Ms. Brenda L. Mulac at (202) 358–1578 for the web link, toll-free number and passcode. The agenda for the meeting includes the following topics:

- Overview of the Integration of UAS into the National Airspace System Project Technical Challenges
- Overview of the Communications Subproject
- Overview of the Certification Subproject
- Overview of the Subproject on Human Systems Interface
- Overview of the Subproject on Separation Assurance/Sense and Avoid Interoperability
- Overview of the Integration Test and Evaluation Subproject

It is imperative that these meetings be held on this date to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters (West Lobby—Visitor Control Center). Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa information (type, number, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Ms. Brenda L. Mulac, by fax at (202) 358–3602. U.S. citizens and green card holder are requested to submit their name and affiliation 3 working days prior to the meeting to Brenda Mulac.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–13304 Filed 5–31–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: Under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public or other Federal agencies to comment on this proposed continuing information collection. The NSF will publish periodic summaries of the proposed projects.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information will have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected, including through the use of automated collection techniques or other forms of information

technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology.

DATES: Written comments on this notice must be received by July 31, 2012 to be assured of consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: 2013 Survey of Doctorate Recipients.

OMB Approval Number: 3145–0020.

Expiration Date of Approval: July 31, 2013.

Type of Request: Intent to seek approval to reinstate an information collection for three years.

1. *Abstract.* The Survey of Doctorate Recipients (SDR) has been conducted biennially since 1973 and is a longitudinal survey. The 2013 SDR will consist of a sample of individuals less than 76 years of age who have earned a research doctoral degree in a science, engineering or health field from a U.S. institution. The purpose of this longitudinal panel survey is to collect data that will be used to provide national estimates on the doctoral science and engineering workforce and changes in their employment, education and demographic characteristics. The SDR is one of the component surveys of the Scientists and Engineers Statistical Data System (SESTAT), which produces national estimates of the size and characteristics of the nation's science and engineering workforce. The 2013 SDR will provide necessary input into the SESTAT.

The National Science Foundation Act of 1950, as subsequently amended, includes a statutory charge to ''* * * provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government.'' The SDR is designed to comply with these mandates by providing information on the supply and utilization of the nation's doctoral level scientists and engineers. The NSF uses the information from the SDR to prepare congressionally mandated reports such as *Women, Minorities and Persons With Disabilities in Science and Engineering and Science and Engineering Indicators.* The NSF publishes statistics from the SDR in many reports, but primarily in the biennial series, *Characteristics of Doctoral Scientists and Engineers in the United States.* A public release file of collected data, designed to protect respondent confidentiality, also will be made available to researchers on the Internet.

Data will be obtained by web survey, mail questionnaire, and computer-assisted telephone interviews beginning in February 2013. The survey will be collected in conformance with the Confidential Information Protection and Statistical Efficiency Act of 2002 and the individual's response to the survey is voluntary. NSF will ensure that all information collected will be kept strictly confidential and will be used only for statistical purposes.

2. *Expected Respondents.* A statistical sample of approximately 47,000 individuals with U.S. earned doctorates in science, engineering or health will be contacted in 2013. This sample will include approximately 40,000 individuals residing in the U.S. (national component) and 7,000 residing abroad (international component). NSF expects the response rate to be 70 to 80 percent for both the national and international components.

3. *Estimate of Burden.* The amount of time to complete the questionnaire may vary depending on an individual's circumstances; however, on average it will take approximately 25 minutes. NSF estimates that the annual burden will be 13,333 hours for the national component and 2,333 hours for the international component. Thus, NSF estimates that the total annual burden for both components will be 15,666 hours.

Dated: May 25, 2012.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2012–13247 Filed 5–31–12; 8:45 am]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: Under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public or other Federal agencies to comment on this proposed continuing information collection. The NSF will publish periodic summaries of the proposed projects.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information will have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology.

DATES: Written comments on this notice must be received by July 31, 2012 to be assured of consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, VA 22230; telephone (703) 292–7556; or send email to *splimto@nsf.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION: *Title of Collection:* 2013 National Survey of College Graduates.

OMB Approval Number: 3145–0141.

Expiration Date of Approval: July 31, 2013.

Type of Request: Intent to seek approval to reinstate an information collection for three years.

1. Abstract

The National Survey of College Graduates (NSCG) has been conducted biennially since the 1970s. The 2013 NSCG sample will be selected from the 2011 American Community Survey (ACS), the 2010 NSCG, and the 2010 National Survey of Recent College Graduates (NSRCG).

The purpose of this longitudinal survey is to provide national estimates on the science and engineering workforce and changes in their employment, education, and demographic characteristics. The NSCG is one of the component surveys of the Scientists and Engineers Statistical Data System (SESTAT), which produces national estimates of the size and characteristics of the nation's science and engineering population. The 2013 NSCG will provide necessary input into the SESTAT.

The National Science Foundation Act of 1950, as subsequently amended, includes a statutory charge to ''* * * provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government.'' The NSCG is designed to comply with these mandates by providing information on the supply and utilization of the nation's scientists and engineers

The NSF uses the information from the NSCG to prepare congressionally mandated reports such as *Women, Minorities and Persons with Disabilities in Science and Engineering and Science and Engineering Indicators.* A public release file of collected data, designed to protect respondent confidentiality, will be made available to researchers on the Internet.

The U.S. Census Bureau, as in the past, will conduct the NSCG for NSF. The survey data collection will begin in February 2013 using Web and mail questionnaires. Nonrespondents to the Web or mail questionnaire will be followed up by computer-assisted telephone interviewing. The survey will be collected in conformance with the Confidential Information Protection and Statistical Efficiency Act of 2002, and the individual's response to the survey is voluntary. NSF will ensure that all information collected will be kept strictly confidential and will be used only for statistical purposes.

2. Expected Respondents

A statistical sample of approximately 145,000 will be contacted in 2013. NSF expects the response rate to be 70 to 80 percent.

3. Estimate of Burden

The amount of time to complete the questionnaire may vary depending on an individual's circumstances; however, on average it will take approximately 25 minutes to complete the survey. NSF estimates that the total annual burden will be no more than 48,333 hours during the 2013 survey cycle.

Dated: May 25, 2012.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2012–13248 Filed 5–31–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by July 2, 2012. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Polly A. Penhale at the above address or (703) 292–7420.

SUPPLEMENTAL INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

1. *Applicant:* Gerald Kooyman, 9500 Gilman Drive, La Jolla, CA 92093.

Permit Application: 2013–006.

Activity for Which Permit Is Requested: Take. Once emperor penguins depart the colony after raising their chicks their natural history is nearly unknown. They migrate to some of the most remote regions of the Antarctic. The reason for the migration is thought to be to find fertile foraging areas and a stable platform of sea ice where they can endure their complete feather molt of 35 days before going back to sea. This is the most critical time in the life cycle for adult birds. If they do not feed well before and after the molt, they are at the greatest risk for survival. For a host of reasons it is desirable to know more about this critical time, and one of the overriding incentives is to know how best to conserve this great natural resource of the bird, the food source, and the habitat. Acting as our guide these tagged birds will tell us much about their environment. Taking advantage of the opportunity to go to one of these great molting areas and determine the foraging areas and the travel of the birds on their return to the breeding colonies is the goal. This can only be accomplished remotely using the most advanced technology of the day, and that is satellite transmitters that will provide data about their aquatic behavior and travel positions on a day to day schedule. Body mass measurement is one of the least intrusive, and most direct ways of determining the condition of the animal. They will be weighed just prior to the attachment of the transmitter, and soon after they have completed the molt. A few feathers will also be collected to determine gender by molecular analysis back in the home laboratory. Gender is an important variable related to the life history of any animal, and should be determined whenever possible.

The applicant plans to be onboard the *Nathaniel B. Palmer* cruising the Ross Sea and will temporarily capture up to 30 adult (after their molt) Emperor penguins to attach a satellite transmitter and remove five feathers for gender determination, then release the birds within 20 minutes after capture.

Location: Ross Island vicinity.

Dates: December 1, 2012 to April 30, 2013.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 2012–13299 Filed 5–31–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The review and evaluation may also include assessment of the progress of awarded proposals. The majority of these meetings will take place at NSF, 4201 Wilson, Blvd., Arlington, Virginia 22230.

These meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will not be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF Web site: *http://www.nsf.gov.* This information may also be requested by telephoning, 703–292–8182.

Dated: May 29, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–13272 Filed 5–31–12; 8:45 am]

BILLING CODE 7555–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–30084]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

May 25, 2012.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of May 2012. A copy of each application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 19, 2012, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street NE., Washington, DC 20549–8010.

First Carolina Investors, Inc.

[File No. 811–8942]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On October 24, 2011, applicant made a liquidating distribution to its shareholders, based on net asset value. The investment company's remaining assets were transferred to a liquidating trust, FCI Liquidating Trust, and shareholders were issued pro rata beneficial interests in FCI Liquidating Trust. Expenses of $331,615 incurred in connection with the liquidation were paid by applicant and FCI Liquidating Trust, applicant's liquidating trust.

Filing Dates: The application was filed on October 26, 2011, and amended on May 17, 2012.

Applicant's Address: 9347 A Founders St., Fort Mill, SC 29708.

Legg Mason Investors Trust, Inc.

[File No. 811–7692]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 21, 2010, applicant transferred its assets to Legg Mason Capital Management Value Trust, Inc., based on net asset value. Expenses of $237,200 incurred in connection with the reorganization were paid by applicant and Legg Mason, Inc.

Filing Dates: The application was filed on November 10, 2011 and amended on May 17, 2012.

Applicant's Address: 100 International Dr., 7th Floor, Baltimore, MD 21202.

DWS Equity Trust

[File No. 811–8599]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 1, 2011, applicant transferred its assets to DWS Select Alternative Allocation Fund and DWS Disciplined Market Neutral Fund, each a series of DWS Market Trust, based on net asset value. Expenses of $3,833 incurred in connection with the reorganization were paid by the series of applicant.

Filing Date: The application was filed on May 8, 2012.

Applicant's Address: 345 Park Ave., New York, NY 10154.

Argentina Fund Inc.

[File No. 811–6387]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On December 14, 2001, applicant transferred its assets to Scudder Latin America Fund, a series of Scudder International Fund, Inc. (811–642), based on net asset value. Expenses of approximately $30,713 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on May 15, 2012.

Applicant's Address: 345 Park Ave., New York, NY 10154.

Credit Suisse Large Cap Blend Fund, Inc.

[File No. 811–8921]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 7, 2011, applicant transferred its assets to Aberdeen U.S. Equity I Fund, a series of

Aberdeen Funds, based on net asset value. Expenses of $99,475 incurred in connection with the reorganization were paid by Credit Suisse Asset Management, LLC, applicant's investment adviser, and Aberdeen Asset Management Inc., investment adviser to the acquiring fund.

Filing Date: The application was filed on May 16, 2012.

Applicant's Address: One Madison Ave., New York, NY 10010.

Credit Suisse Capital Funds

[File No. 811–4604]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 7, 2011, applicant transferred its assets to Aberdeen U.S. Equity II Fund, a series of Aberdeen Funds, based on net asset value. Expenses of $96,502 incurred in connection with the reorganization were paid by Credit Suisse Asset Management, LLC, applicant's investment adviser, and Aberdeen Asset Management Inc., investment adviser to the acquiring fund.

Filing Dates: The application was filed on April 23, 2012, and amended on May 15, 2012.

Applicant's Address: One Madison Ave., New York, NY 10010.

BlackRock Equity Dividend Trust

[File No. 811–21443]

BlackRock Strategic Equity Dividend Trust

[File No. 811–21493]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On February 27, 2012, applicants transferred their assets to BlackRock Enhanced Equity Dividend Trust, based on net asset value. Expenses of approximately $506,042 and $360,003, respectively, incurred in connection with the reorganization were paid by and BlackRock Advisors, LLC, applicant's investment adviser.

Filing Dates: The applications were filed on April 4, 2012, and BlackRock Equity Dividend Trust was amended on May 14, 2012.

Applicants' Address: 100 Bellevue Parkway, Wilmington, DE 19809.

Old Mutual Funds I

[File No. 811–21587]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 16, 2012, series of the applicant transferred their assets to corresponding series of Touchstone Strategic Trust, based on net asset value. Expenses of $276,320 incurred in connection with the reorganization were paid by Old Mutual Capital, applicant's investment adviser.

Filing Date: The application was filed on April 26, 2012.

Applicant's Address: 4643 South Ulster Street, Suite 800, Denver, CO 80237.

Credit Suisse Global High Yield Fund, Inc.

[File No. 811–8927]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On August 27, 2010, applicant transferred its assets to Credit Suisse Floating Rate High Income Fund, a series of Credit Suisse Opportunity Funds, based on net asset value. Expenses of $49,979 incurred in connection with the reorganization were paid by Credit Suisse Asset Management, LLC, applicant's investment adviser.

Filing Dates: The application was filed on December 15, 2010 and amended on April 23, 2012.

Applicant's Address: One Madison Ave., New York, NY 10010.

Keystone America Tax Free Money Market Fund

[File No. 811–4960]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about July 15, 1992, applicant made a liquidating distribution to its shareholders, based on net asset value. Records are not available concerning the expenses incurred in connection with the liquidation.

Filing Dates: The application was filed on January 3, 2012, and amended on April 30, 2012.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Keystone America Money Market Fund

[File No. 811–4948]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about July 29, 1992, applicant made a liquidating distribution to its shareholders, based on net asset value. Records are not available concerning the expenses incurred in connection with the liquidation.

Filing Dates: The application was filed on December 28, 2011, and amended on April 25, 2012.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Special Value Continuation Partners, LP

[File No. 811–21935]

TCP Capital Corp.

[File No. 811–21936]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Each applicant has elected status as a business development company under the Act and maintains its current portfolio, debts and other liabilities. Each applicant will pay any outstanding or other liabilities as they come due in the ordinary course of business.

Filing Date: The application for Special Value Continuation Partners, LP was filed on April 2, 2012, and amended on May 14, 2012. The application for TCP Capital Corp. was filed on April 9, 2012, and amended on May 14, 2012.

Applicants' Address: 2951 28th Street, Suite 1000, Santa Monica, CA 90405.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–13281 Filed 5–31–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67063; File No. SR–FINRA–2012–021]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Relating to Post-Trade Transparency for Agency Pass-Through Mortgage-Backed Securities Traded in Specified Pool Transactions and SBA–Backed Asset-Backed Securities Transactions

May 25, 2012.

On April 2, 2012, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change related to post-trade transparency for Agency Pass-Through Mortgage-Backed Securities traded in Specified Pool Transactions (''MBS SPT'') and Asset-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b4.

Backed Securities backed by loans guaranteed as to principal and interest by the Small Business Administration and traded either in Specified Pool Transactions or To Be Announced (''SBA–Backed ABS''). The proposed rule change was published for comment in the **Federal Register** on April 19, 2012.[3] The Commission received two comment letters on the proposal.[4]

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is June 3, 2012. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, the comments received, and any response to the comments submitted by FINRA. The proposed rule change would, among other things, provide for post-trade transparency of MBS SPT and SBA–Backed ABS transactions that are reported to the Trade Reporting and Compliance Engine (''TRACE'').

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates July 18, 2012, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–13254 Filed 5–31–12; 8:45 am]

BILLING CODE 8011–01–P

[3] Securities Exchange Act Release No. 66804 (April 13, 2012), 77 FR 23524 (April 19, 2012).

[4] *See* letter from Chris Killian, Managing Director, Securities Industry and Financial Markets Association, to Elizabeth M. Murphy, Secretary, Commission, dated May 10, 2012; letter from Michael Nicholas, Chief Executive Officer, Bond Dealers of America, to Elizabeth M. Murphy, Secretary, Commission, dated May 10, 2012.

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67064; File No. SR–MSRB–2012–05]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of a Proposed Rule Change Consisting of a Restatement of an Interpretive Notice Concerning the Application of MSRB Rule G–17 to Sophisticated Municipal Market Professionals

May 25, 2012.

I. Introduction

On March 26, 2012, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of a restatement of an interpretive notice (the current interpretive notice, ''Existing SMMP Notice,'' and the proposed restated interpretive notice, ''Restated SMMP Notice'') concerning the application of MSRB Rule G–17 (on conduct of municipal securities and municipal advisory activities) to sophisticated municipal market professionals (''SMMPs'').[3] The proposed rule change was published for comment in the **Federal Register** on April 13, 2012.[4] The Commission received one comment letter on the proposed rule change.[5] On May 18, 2012, the MSRB submitted a response letter.[6] This order approves the proposed rule change.

II. Description

Existing Definition of SMMP

Under the Existing SMMP Notice, a dealer is permitted to treat an institutional customer[7] as an SMMP if the dealer has reasonable grounds for concluding the following and if other known facts do not contradict such a conclusion: (1) The customer has timely access to the publicly available material facts concerning a municipal securities transaction; (2) the customer is capable of independently evaluating the investment risk and market value of the municipal securities at issue; and (3) the customer is making independent decisions about its investments in municipal securities.[8] The Existing SMMP Notice also provides additional considerations that may be relevant in determining whether an institutional customer has timely access to publicly available information, is capable of independently evaluating investment risk and market value, and is making independent investment decisions.

Application of Existing SMMP Definition

The Existing SMMP Notice addresses a dealer's obligations to an SMMP under MSRB's Rule G–17 (on fair dealing), Rule G–18 (on execution of transactions), Rule G–19 (on suitability), and Rule G–13 (on quotations). According to the MSRB, Rule G–17 requires brokers, dealers, and municipal securities dealers (collectively referred to herein as ''dealers'') to disclose to customers at or before the time of trade all material information about a transaction known by the dealer, as well as all material information about a security reasonably accessible to the market from established industry sources.[9] The Existing SMMP Notice provides that, when a dealer effects a non-recommended secondary market transaction with an SMMP, its affirmative Rule G–17 disclosure duty concerning material information available from established industry sources will be deemed satisfied. A dealer, however, may not engage in deceptive, dishonest, or unfair practices under Rule G–17 or under the federal securities laws. Further, in a transaction with an SMMP, a dealer's intentional

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The implementation date for Financial Industry Regulatory Authority (''FINRA'') Rule 2111 (Suitability) is July 9, 2012. The MSRB proposed to adopt the same time frame for its Restated SMMP Notice.

[4] *See* Securities Exchange Act Release No. 66772 (April 9, 2012), 77 FR 22367 (''Notice'').

[5] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from David L. Cohen, Managing Director, Associate General Counsel, Securities Industry and Financial Markets Association, dated May 4, 2012 (''SIFMA Letter'').

[6] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Ernesto A. Lanza, Deputy Executive Director and Chief Legal Officer, dated May 18, 2012 (''MSRB Letter'').

[7] For purposes of the Existing SMMP Notice, an institutional customer is defined as ''an entity, other than a natural person (corporation, partnership, trust, or otherwise), with total assets of at least $100 million invested in municipal securities in the aggregate in its portfolio and/or under management.''

[8] Although the Existing SMMP Notice permits a dealer to have an investor attest to SMMP status ''as a means of streamlining the dealers' process for determining that the customer is an SMMP,'' it also provides that a dealer may not rely on such an attestation if the dealer knows or has reason to know that the investor lacks sophistication concerning a municipal securities transaction based on a number of factors set forth in the notice.

[9] *See* MSRB Interpretive Notice Regarding Rule G–17, On Disclosure of Material Facts (March 20, 2002) and MSRB Guidance On Disclosure and Other Sales Practice Obligations to Individual and Other Retail Investors in Municipal Securities (July 14, 2009).

withholding of a material fact about a security when the information is not accessible through established industry sources may constitute an unfair practice that violates Rule G–17.

According to the MSRB, Rule G–18 provides that each dealer, when executing a transaction in municipal securities for or on behalf of a customer as agent, must make a reasonable effort to obtain a price for the customer that is fair and reasonable in relation to prevailing market conditions. The Existing SMMP Notice provides that a dealer effecting a non-recommended secondary market agency transaction for an SMMP is not required to take further actions to ensure that the transaction is effected at a fair and reasonable price, if its services have been explicitly limited to providing anonymity, communication, order matching, and/or clearance functions and the dealer does not exercise discretion as to how or when a transaction is executed. The Existing SMMP Notice also states that this interpretation of Rule G–18 is particularly relevant to dealers operating alternative trading systems, as dealers operating such systems may be merely aggregating the buy and sell interest of other dealers or SMMPs.[10] A footnote to the Existing SMMP Notice states that the same interpretation would apply to a broker's broker when executing an agency transaction for another dealer.

According to the MSRB, under Rule G–19, in the case of a recommended transaction, a dealer must have a reasonable basis for recommending a particular security (''reasonable-basis suitability''), as well as reasonable grounds for believing the recommendation is suitable for the customer to whom it is made, based upon information available from the issuer of the security or otherwise and based upon the facts disclosed by the customer or otherwise known about the customer (''customer-specific suitability''). The Existing SMMP Notice provides that, when a dealer has reasonable grounds for concluding that an institutional customer is an SMMP, the dealer's customer-specific suitability obligation is fulfilled.

According to the MSRB, under Rule G–13, no dealer may distribute or publish, or cause to be distributed or published, any quotation relating to municipal securities, unless the quotation is *bona fide* (*i.e.,* the dealer making the quotation is prepared to execute at the quoted price) and the price stated in the quotation is based on the best judgment of the dealer of the fair market value of the securities that are the subject of the quotation at the time the quotation is made. In general, any quotation disseminated by a dealer (including the quotation of an investor) is presumed to be a quotation made by the dealer, and the dealer is responsible for ensuring compliance with the *bona fide* and fair market value requirements with respect to the quotation. However, if a dealer disseminates a quotation that is actually made by another dealer and the quotation is labeled as such, then the quotation is presumed to be a quotation made by such other dealer and not by the disseminating dealer. In such a case, the disseminating dealer is only required to have no reason to believe that either: (1) The quotation does not represent a *bona fide* bid for, or offer of, municipal securities by the maker of the quotation; or (2) the price stated in the quotation is not based on the best judgment of the maker of the quotation of the fair market value of the securities. If a dealer disseminates the quotation of an SMMP and it is labeled as such, the disseminating dealer will be held to the same standard as if it were disseminating a quotation made by another dealer. The Existing SMMP Notice also provides several factors that are relevant to whether dissemination of the SMMP's quotation may be considered to be a violation of Rule G–13 by the dealer.

Considerations for Change

According to the MSRB, in 2002, it adopted a definition of SMMP that differed from certain other regulatory definitions of investors considered sophisticated enough to receive special treatment under federal securities law. The MSRB stated that the SMMP definition was closely modeled on an NASD interpretation of its suitability rule,[11] which contained a comparable list of factors found relevant to an investor's independent evaluation of risk and independent investment decisions. The MSRB stated that a notable difference was that the definition of SMMP also looked to whether the investor had access to material facts and that a key factor for the difference was the lack of information available about municipal securities at that time. According to the MSRB, since the adoption of the existing definition of SMMP, there has been a vast increase in the availability of information about municipal securities reasonably accessible by institutional investors regardless of the amount of their holdings of municipal securities.

As of July 9, 2012, the NASD guidance on institutional suitability will no longer be in effect. It will be replaced by FINRA Rule 2111, which adopts a different approach to a FINRA member's customer-specific duty of suitability to an ''institutional account.'' Under FINRA Rule 2111, a dealer's customer-specific suitability obligation to an institutional customer will be considered satisfied if (1) the dealer has a reasonable basis to believe that the institutional customer is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies involving a security or securities and (2) the institutional customer affirmatively indicates that it is exercising independent judgment in evaluating the dealer's recommendations. There will no longer be a detailed listing of factors, such as that found in the Existing SMMP Notice. The MSRB noted that, absent clear reasons for treating transactions in municipal securities differently, from the standpoint of reducing compliance cost, it generally considers it desirable to maintain consistency with FINRA rules.

Proposal to Restate SMMP Notice

Because the quality and availability of information concerning municipal securities has improved substantially since 2002, and to maintain consistency with the revised FINRA suitability rule for institutional customers, the MSRB proposed to retain the concept of an SMMP but revise its definition. Specifically, the MSRB proposed to define SMMP as an ''institutional customer of a dealer that: (1) The dealer has a reasonable basis to believe is capable of evaluating investment risks and market value independently, both in general and with regard to particular transactions in municipal securities, and (2) affirmatively indicates that it is exercising independent judgment in evaluating the recommendations of the dealer.'' [12] The MSRB also proposed that

[10] The Existing SMMP Notice also states that dealers operating alternative trading systems, under the general duty set forth in Rule G–18, must act to investigate any alleged pricing irregularities on its systems brought to its attention.

[11] *See* NASD IM–2310–3 (Suitability Obligations to Institutional Customers).

[12] ''Institutional customer'' would be defined as a customer with an ''institutional account.'' MSRB Rule G–8(a)(xi) defines ''institutional account'' as the account of (i) a bank, savings and loan association, insurance company, or registered investment company; (ii) an investment adviser registered either with the Commission under Section 203 of the Investment Advisers Act of 1940 or with a state securities commission (or any agency or office performing like functions); or (iii) any other entity (whether a natural person, corporation,

Continued

''[a]s part of the reasonable basis analysis required by clause (1), the dealer should consider the amount and type of municipal securities owned or under management by the institutional customer.'' There would no longer be a threshold requirement that a customer own or manage a certain amount of municipal securities in order to be considered an SMMP.

The MSRB proposed that, in the case of the affirmation described in clause (2) of the revised definition of SMMP, customers be allowed to make the affirmation orally or in writing and to provide the affirmation on a trade-by-trade basis, on a type-of-municipal-security basis, or for all potential transactions for the customer's account. The MSRB stated that this requirement would be consistent with the affirmation requirement of FINRA Rule 2111, and receipt by a dealer of the FINRA 2111 affirmation would also satisfy this requirement.

The Restated SMMP Notice would not change the application of Rules G–18, G–19, and G–13 to SMMPs. However, it would change the application of Rule G–17 to SMMPs, under the assumption that institutional customers now have substantial access to material information about municipal securities. The Existing SMMP Notice excludes a dealer from the duty to disclose all material information available from established industry sources when it transacts a non-recommended transaction. The Restated SMMP Notice, however, would apply this exclusion to all transactions with SMMPs, whether recommended or self-directed. The Restated SMMP Notice would also remove the lists of factors to consider in determining a customer's status as an SMMP. In addition, the proposal would update the Existing SMMP Notice to reflect developments in the MSRB's interpretations of Rule G–17 since 2002. Further, the proposal would remove endnote 9 to the Existing SMMP Notice, which, according to the MSRB, has been construed by some to lessen the duty of a broker's broker under Rule G–18 in a manner that is inconsistent with the Board's proposed Rule G–43 (on broker's brokers).[13] Lastly, the Restated SMMP Notice would remove the language that suggests that transactions on alternative trading systems are done on an agency basis, because, according to the MSRB, at least one major alternative trading system engages only in principal transactions.

III. Comments

The Commission received one comment letter supporting this proposed rule change.[14] The commenter supported the revised definition of SMMP ''as the quality and availability of information concerning municipal securities has greatly improved since 2002.'' The commenter agreed that it is desirable, from the standpoint of reducing the cost of dealer compliance, to maintain consistency with FINRA rules, absent clear reasons for treating transactions in municipal securities differently. Specifically, the commenter supported revising the definition of SMMP so that it is harmonized with FINRA's revised suitability rule as it applies to institutional customers. The commenter also expressed support for the ''harmonized compliance regime to allow an institutional customer to provide a single affirmation of their desire to exercise independent judgment in selecting investments to satisfy FINRA Rule 2111 for all products, including the MSRB's requirement for SMMP status.'' Further, to avoid confusion, this commenter supported the MSRB's proposal to implement the proposed rule change on July 9, 2012, the date on which FINRA Rule 2111 will become effective.

In its response letter,[15] the MSRB acknowledged SIFMA's comment regarding harmonization with FINRA Rule 2111. It noted that in one respect, the revised definition of SMMP would be identical to the language of FINRA Rule 2111—that both would refer to an institutional customer that affirmatively indicates that it is exercising independent judgment in evaluating the dealer's recommendations. As stated in the Notice, receipt by a dealer of the FINRA Rule 2111 affirmation would thus satisfy the second clause of the revised definition of SMMP. The MSRB however also noted that the other part of the revised definition of SMMP would provide that a dealer must have a reasonable basis to believe that an institutional customer is capable of evaluating investment risks and market value independently, both in general and with regard to particular transactions in municipal securities. Further, the MSRB noted that the Restated SMMP Notice would provide that, as part of the reasonable basis analysis, the dealer should consider the amount and type of municipal securities owned or under management by the institutional customer. The MSRB stated that FINRA Rule 2111 contains a similar, but not identical, requirement that ''the member or associated person has a reasonable basis to believe that the institutional customer is capable of evaluating investment risk independently, both in general and with regard to particular transactions and investment strategies involving a security or securities.'' The MSRB emphasized that ''the language in the filing regarding the use of a FINRA Rule 2111 affirmation was not intended to suggest that a representation from an institutional customer would, by itself, satisfy the dealer's reasonable basis obligation under the first prong of the revised SMMP definition.''

IV. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, the comment letter received and the MSRB's response, and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB.[16] Specifically, the Commission finds that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(C) of the Act,[17] which requires, among other things, that the rules of the MSRB be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The Commission believes that the MSRB's proposal to restate its Existing SMMP Notice concerning the application of Rule G–17 to SMMPs is consistent with the Act. As noted by the MSRB, the amount of available information about municipal securities has substantially increased since the Existing SMMP Notice was approved, and this information is reasonably accessible by institutional investors

partnership, trust, or otherwise) with total assets of at least $50 million.

[13] *See* Securities Exchange Act Release No. 66625 (March 20, 2012), 77 FR 17548 (March 26, 2012) (SR–MSRB–2012–04). The MSRB noted that, under proposed Rule G–43, an alternative trading system that had any customers (as defined in MSRB Rule D–9) that were not SMMPs would not be excepted from the definition of ''broker's broker.''

[14] *See* SIFMA Letter, *supra* note 5.

[15] *See* MSRB Letter, *supra* note 6.

[16] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78*o*–4(b)(2)(C).

regardless of the amount of their holdings of municipal securities.[18] For example, the MSRB's Electronic Municipal Market Access system (''EMMA'') public Web site is a free on-line source for primary market disclosures, continuing disclosures, transaction data, variable rate security information, market statistics and investor education. Also, as noted by the MSRB, the Restated SMMP Notice would be consistent with FINRA's new rule on suitability obligations for an institutional account, which will be implemented on July 9, 2012. The Commission agrees with the MSRB that such consistency is desirable from the standpoint of reducing the cost of dealer compliance, absent clear reasons for treating transactions in municipal securities differently. The Commission, however, notes that under the Restated SMMP Notice, to meet the revised definition of an SMMP, a dealer must have a reasonable basis to believe the institutional customer is capable of evaluating investment risks and market value independently, both in general and with regard to particular transactions in municipal securities. As the MSRB has emphasized, a representation from an institutional customer would not, by itself, satisfy the dealer's reasonable basis obligation under this clause of the revised SMMP definition.

In light of the increase in access to material information about municipal securities, the Commission believes that it is consistent with the Act to expand the disclosure exclusion for material information to all transactions with SMMPs, whether recommended or self-directed. Accordingly, when a dealer has reasonable grounds for concluding that the customer is an SMMP, the dealer's obligation to ensure disclosure of material information available from established industry sources is fulfilled. In addition, the Commission believes that the proposal to amend the application of Rule G–17 to SMMPs to reflect developments in the MSRB's interpretations of Rule G–17 since 2002 is consistent with the Act, because it will help to ensure consistency between MSRB's rules. Further, the Commission believes that the proposal to remove endnote 9 to the Existing SMMP Notice is consistent with the Act, because it will help to clarify the duties of broker's brokers under MSRB rules. Lastly, the Commission believes that the proposal to remove the language that suggests that transactions on alternative trading systems are done on an agency basis is consistent with the Act, because it will help to ensure the accuracy of the Restated SMMP Notice. As noted above, according to the MSRB, at least one major alternative trading system engages only in principal transactions.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–MSRB–2012–05) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–13255 Filed 5–31–12; 8:45 am]

BILLING CODE 8011–01–P

[18] As noted above, although the Restated SMMP Notice would not require that an institutional customer own or manage a specified amount of municipal securities in order to fall within the definition of SMMP, the Restated SMMP Notice does provide that a dealer should consider the amount and type of municipal securities owned or under management by the institutional customer in establishing a reasonable basis to believe that the customer is capable of evaluating investment risks and market value independently.

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67065; File No. SR–CBOE–2012–047]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

May 25, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 17, 2012 the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission.

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.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Customer Large Trade Discount (the ''Discount''), which is intended to cap fees on large customer trades. Currently, regular customer transaction fees are charged up to the first 10,000 VIX options contracts in a customer order, regardless of how many contracts a Trading Permit Holder (''TPH'') executes in a given month. The Exchange hereby proposes to amend the Discount to state that, for any TPH that executes 750,000 or more customer VIX options contracts in a month, regular customer transaction fees will only be charged up to the first 7,500 VIX options contracts per order in that month (the ''Amendment'').

The Exchange offers the Discount in order to encourage growth of new products, including VIX options, which the Exchange spent considerable time and resources developing. CBOE proposes the Amendment in order to incentivize TPHs to bring more customer VIX options orders to the Exchange. The greater liquidity and trading volume that the Amendment encourages would benefit all market participants trading VIX options.

The proposed change is to take effect on June 1, 2012.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[3] Specifically,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[4] which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities. The Amendment is reasonable because it will allow qualifying TPHs to pay lower transaction fees for large customer VIX options transactions. The Amendment is equitable and not unfairly discriminatory because it is intended to encourage TPHs to bring more customer VIX options orders to the Exchange, and the resulting increased volume and liquidity will benefit all market participants trading VIX options.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[5] of the Act and paragraph (f) of Rule 19b–4[6] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2012–047 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2012–047. This file number should be included on the subject line if email 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2012–047, and should be submitted on or before June 22, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–13256 Filed 5–31–12; 8:45 am]

BILLING CODE 8011–01–P

[4] 15 U.S.C. 78f(b)(4).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f).

[7] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13080 and #13081]

Kansas Disaster #KS–00064

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Kansas (FEMA–4063–DR), dated 05/24/2012.

Incident: Severe storms, tornadoes, straight-line winds, and flooding.

Incident Period: 04/14/2012 through 04/15/2012.

Effective Date: 05/24/2012.

Physical Loan Application Deadline Date: 07/23/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 02/25/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/24/2012, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Edwards, Ellsworth, Harper, Hodgeman, Jewell, Kiowa, Mitchell, Osborne, Rice, Rush, Russell, Sedgwick, Stafford, Sumner.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13080B and for economic injury is 13081B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator

for Disaster Assistance.

[FR Doc. 2012–13326 Filed 5–31–12; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2011–0089]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Department of Homeland Security (DHS))—Match Number 1010

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal of an existing computer matching program that will expire on July 18, 2012.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with DHS.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869, or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Daniel F. Callahan,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Notice of Computer Matching Program, SSA With DHS

A. Participating Agencies

SSA and DHS.

B. Purpose of the Matching Program

The purpose of this matching program is to establish conditions, safeguards, and procedures for disclosure of information relating to aliens for matching purposes by DHS and us. DHS will disclose two separate data files through a computer matching operation for our use in making Federal benefit eligibility determinations for aliens who leave the United States voluntarily and aliens who are removed from the United States.

C. Authority for Conducting the Matching Program

This agreement is executed under the Privacy Act of 1974, 5 U.S.C. 552a, as amended by the Computer Matching and Privacy Protection Act of 1988, as amended, and the regulations and guidance promulgated thereunder.

Legal authority for the disclosures under this agreement is the Social Security Act (Act), 42 U.S.C. 1383(e)(1)(B), 402(n), 1382(f) and 1382c(a)(1), and the Immigration and Nationality Act (INA), 8 U.S.C. 1611 and 1612.

Section 1631(e)(1)(B) of the Act requires us to verify declarations of applicants for and recipients of Supplemental Security Income (SSI) payments before making a determination of eligibility or payment amount. Section 1631(f) of the Act requires Federal agencies to provide us with information necessary to verify SSI eligibility or benefit amounts or to verify other information related to these determinations. Section 202(n)(2) of the Act specifies that the Secretary of Homeland Security notify the Commissioner of Social Security when certain individuals are removed from the United States under sections 237(a) and 212(a)(6)(A) of the INA.

D. Categories of Records and Persons Covered by the Matching Program

1. Aliens Who Leave the United States Voluntarily

Using the DHS Benefits Information System (BIS), DHS/USCIS–007, DHS will identify for us aliens who leave the United States voluntarily. Our systems of records used in the match are the Master Files of Social Security Number (SSN) Holders and SSN Applications (Enumeration System), SSA/OEEAS 60–0058, and the Supplemental Security Income Record and Special Veterans Benefits (SSIR/SVB or SSR), SSA/OASSIS 60–0103.

BIS provides us the alien's name, SSN, date of birth (DOB), alien identification number, date of departure, and expected length of stay. To verify the SSN, we will match BIS data against the names, DOB, and SSNs found in our Numident and Alpha-Index files in our Enumeration System. We will store and match verified SSNs against the same elements in our SSR files.

2. Aliens Who Are Removed From the United States

DHS will identify for us, from their Immigration and Enforcement Operational Records System (ENFORCE), DHS/ICE–011, aliens who are removed from the United States. Immigration and Customs Enforcement maintains information on removed aliens from the DHS database known as the Enforcement Integrated Database (EID).

Our systems of records used in the match are the Enumeration System, the SSR, the Master Beneficiary Record (MBR), SSA/OEEAS 60–0090, and the Prisoner Update Processing System (PUPS), SSA/OPB 60–0269. The Unverified Prisoner System (UPS) is a subsystem of PUPS. UPS users perform a manual search of fallout cases where the Enumeration and Verification

System is unable to locate an SSN for an alien deportee.

ENFORCE, EID provides us information including the individual's name and alias (if any), SSN (if available), DOB, sex, country of birth, country to which removed, date of removal, final removal charge code, and DHS ''A'' number. To verify the SSN, we will match ENFORCE data against our Numident and Alpha-Index files in our Enumeration System. We match the verified SSNs against the existing MBR and SSR records to locate those aliens removed from the United States, and their dependents or survivors, if any, who have claimed and are currently receiving Retirement, Survivors and Disability Insurance and/or SSI benefits.

E. Inclusive Dates of the Matching Program

The effective date of this matching program is July 19, 2012, provided that the following notice periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and OMB. The matching program will continue for 18 months from the effective date and, if both agencies meet certain conditions, it may extend for an additional 12 months thereafter.

[FR Doc. 2012–13300 Filed 5–31–12; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 7911]

60-Day Notice of Proposed Information Collection: DS–3077, Request for Entry Into Children's Passport Issuance Alert Program, OMB 1405–0169

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Request for Entry into Children's Passport Issuance Alert Program.
- *OMB Control Number:* 1405–0169.
- *Type of Request:* Extension.
- *Originating Office:* CA/OCS/PRI.
- *Form Number:* DS–3077.
- *Respondents:* Concerned parents or their agents, institutions, or courts.
- *Estimated Number of Respondents:* 8,000.
- *Estimated Number of Responses:* 8,000.
- *Average Hours Per Response:* 30 minutes.
- *Total Estimated Burden:* 4,000 hrs.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

DATES: The Department will accept comments from the public up to 60 days from June 1, 2012.

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

- *Web:* Persons with access to the Internet may view and comment on this notice by going to the Federal regulations Web site at *www.regulations.gov.* You can search for the document by: selecting ''Notice'' under Document Type, entering the Public Notice number as the ''Keyword or ID'', checking the ''Open for Comment'' box, and then click ''Search''. If necessary, use the ''Narrow by Agency'' option on the Results page.
- *Email: ASKPRI@state.gov.*
- *Mail (paper, disk, or CD–ROM submissions):* U.S. Department of State, CA/OCS/PRI, SA–29, 4th Floor, Washington, DC 20520.
- *Fax:* 202–736–9111.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection should be made to Derek A Rivers, Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS/PRI), U.S. Department of State, SA–29, 4th Floor, Washington, DC 20520, who may be reached on (202) 202–663–3585 or *ASKPRI@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection:

The information requested will be used to support entry of a minor's (an unmarried person under 18) name into the Children's Passport Issuance Alert Program (CPIAP). CPIAP provides a mechanism for parents or other persons with legal custody of a minor to obtain information regarding whether the Department has received a passport application for the minor. This program was developed as a means to prevent international abduction of a minor or to help prevent other travel of a minor without the consent of a parent or legal guardian. If a minor's name and other identifying information has been entered into the CPIAP, when the Department receives an application for a new, replacement, or renewed passport for the minor, the application will be placed on hold for up to 60 days and the Office of Children's Issues will attempt to notify the requestor of receipt of the application. Form DS–3077 will be primarily submitted by a parent or legal guardian of a minor.

Methodology:

The completed form DS–3077 may be submitted to the Office of Children's Issues by mail, by fax, or electronically through *www.travel.state.gov.*

Dated: May 19, 2012.

Michelle Bernier-Toth,

Managing Director, Bureau of Consular Affairs, Department of State.

[FR Doc. 2012–13339 Filed 5–31–12; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 7910]

30-Day Notice of Proposed Information Collection: DS 5507, Affidavit of Physical Presence or Residence, Parentage and Support, (OMB No.1405–0187)

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* DS 5507, Affidavit of Physical Presence or Residence, Parentage and Support.
- *OMB Control Number:* OMB No.1405–0187.
- *Type of Request:* Revision.
- *Originating Office:* Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS).
- *Form Number:* DS–5507.
- *Respondents:* United States Citizens.

• *Estimated Number of Respondents:* 17,784.

• *Estimated Number of Responses:* 17,784.

• *Average Hours per Response:* 30 minutes.

• *Total Estimated Burden:* 8,892 hours.

• *Frequency:* On Occasion.

• *Obligation to Respond:* Application for Benefits. Although acquisition of citizenship is not a federal ''benefit,'' applicants will not be able to obtain citizenship for their child(ren) if they do not provide the information requested in the form.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from June 1, 2012.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

• *Email: oira_submission@omb.eop.gov*. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

• *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Derek A. Rivers, Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS/PRI), U.S. Department of State, SA–29, 4th Floor, Washington, DC 20520 or at *ASKPRI@state.gov*.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary to properly perform our functions.

• Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond,

Abstract of proposed collection: The purpose of the information collection is to determine if a U.S. citizen/national parent possesses the requisite physical presence or residence in the United States prior to their child's birth to transmit U.S. citizenship to the child, to establish parentage of the child, and to fulfill the requirements of 8 U.S.C. 1409(a) which requires a written statement of financial support to be provided by U.S. citizen fathers for children born out of wedlock.

Methodology: The information is collected in person. The Bureau of Consular Affairs is currently exploring options to make this information collection available electronically.

Dated: May 14, 2012.

Michelle Bernier-Toth,

Managing Director, Bureau of Consular Affairs, Department of State.

[FR Doc. 2012–13341 Filed 5–31–12; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 7909]

30-Day Notice of Proposed Information Collection: DS–234, Special Immigrant Visa Biodata Form, OMB Number 1405–0203

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995.

• *Title of Information Collection:* Special Immigrant Visa Biodata Form.

• *OMB Control Number:* 1405–0203.

• *Type of Request:* Extension of Currently Approved Collection.

• *Originating Office:* Bureau of Population, Refugees, and Migration, Office of Admissions (PRM/A).

• *Form Number:* DS–234.

• *Respondents:* Iraqi and Afghan Special Immigrant Visa Applicants.

• *Estimated Number of Respondents:* 12,000 per year.

• *Estimated Number of Responses:* 12,000 per year.

• *Average Hours per Response:* 20 minutes.

• *Total Estimated Burden:* 4000 hours.

• *Frequency:* Once per respondent.

• *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from June 1, 2012.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

• *Email: oira_submission@omb.eop.gov*. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

• *Fax:* (202) 395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Sumitra Siram, who may be reached on (202) 453–9250 or at *SiramS@state.gov*.

SUPPLEMENTARY INFORMATION:

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper performance of our functions.

• Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection:

Form DS–234 elicits information used to determine the eligibility of Iraqi and Afghan nationals who are applying for special immigrant visas to receive refugee resettlement benefits.

Methodology:

The SIV Biodata information form (DS–234) is submitted electronically by the respondent to the National Visa Center, which will forward the forms to the Refugee Processing Center of the Bureau of Population, Refugees and Migration.

Dated: May 14, 2012.

Kelly A. Gauger,

Deputy Director, Office of Admissions, Bureau of Population, Refugees, and Migration, Department of State.

[FR Doc. 2012–13343 Filed 5–31–12; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 7908]

Culturally Significant Objects Imported for Exhibition Determinations: ''Messerschmidt and Modernity''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat.

2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the objects to be included in the exhibition ''Messerschmidt and Modernity,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The J. Paul Getty Museum, Los Angeles, California from on or about July 24, 2012, until on or about October 15, 2012, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Ona M. Hahs, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6473). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: May 25, 2012.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012–13334 Filed 5–31–12; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7907]

The ''100,000 Strong'' Initiative Federal Advisory Committee: Notice of Meeting

SUMMARY: The Bureau of East Asian and Pacific Affairs of the Department of State hereby gives notice of a public meeting of the ''100,000 Strong'' Initiative Federal Advisory Committee. The ''100,000 Strong'' Federal Advisory Committee, composed of prominent China experts and leaders in business, academic, and non-profit organizations, serves a critical advisory role in achieving the Obama Administration's goal, announced in May 2010, of seeing 100,000 Americans study in China by 2014.

DATES: The meeting will take place on Tuesday, June 26, 2012, from 3:00 p.m. to 5:00 p.m. EDT at the Department of State, Washington, DC. Participants should arrive by 2:30 p.m. at 2201 C Street NW., C Street Lobby, and will be directed to the meeting room.

Public Participation: This Advisory Committee meeting is open to the public, subject to the capacity of the meeting room. Access to the building is controlled; persons wishing to attend should contact Kim McClure of the Department of State's Bureau of East Asian and Pacific Affairs at *mcclurekm@state.gov* and provide their name, affiliation, date of birth, country of citizenship, government identification type and number, email address, and mailing address no later than June 15, 2012. Data from the public is requested pursuant to Public Law 99–399 (Omnibus Act of 1986) as amended; Public Law 107–56 (USA PATRIOT ACT); and Executive Order 13356. The primary purpose for collecting this information is to validate the identity of individuals who enter Department facilities. Please see the Privacy Impact Assessment for VACS–D at *http://www.state.gov/documents/organization/100305.pdf* for additional information. Persons who cannot participate in the meeting but who wish to comment are welcome to do so by email to Kim McClure at *mcclurekm@state.gov.* A member of the public needing reasonable accommodation should advise the contact person identified above not later than June 15, 2012. Requests made after that date will be considered, but might not be able to be fulfilled. Members of the public who are unable to attend the Advisory Committee meeting in person but would like to participate by teleconferencing can contact Kim McClure at 202–647–7059 to receive the conference call-in number and the relevant information.

FOR FURTHER INFORMATION CONTACT: Kim McClure, Coordinator—100,000 Strong Initiative, 202–647–7059.

Dated: May 25, 2012.

Kim McClure,

Coordinator—100,000 Thousand Strong Initiative, Department of State.

[FR Doc. 2012–13335 Filed 5–31–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0070]

Technical Report: Evaluation of the Enhancing Vehicle-to-Vehicle Crash Compatibility Agreement: Effectiveness of the Primary and Secondary Energy-Absorbing Structures on Pickup Trucks and SUVs

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for comments on technical report.

SUMMARY: This notice announces NHTSA's publication of a Technical Report reviewing and evaluating the Enhancing Vehicle-to-Vehicle Crash Compatibility Agreement. The report's title is: *Evaluation of the Enhancing Vehicle-to-Vehicle Crash Compatibility Agreement: Effectiveness of the Primary and Secondary Energy-Absorbing Structures on Pickup Trucks and SUVs.*

DATES: Comments must be received no later than October 1, 2012.

ADDRESSES: *Report:* The technical report is available on the Internet for viewing in PDF format at *http://www-nrd.nhtsa.dot.gov/Pubs/811621.pdf.* You may obtain a copy of the report free of charge by sending a self-addressed mailing label to Nathan K. Greenwell (NVS–431), National Highway Traffic Safety Administration, Room W53–440, 1200 New Jersey Avenue SE., Washington, DC 20590.

Comments: You may submit comments [identified by Docket Number NHTSA–2012–0070] by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

You may call Docket Management at 202–366–9826.

Instructions: For detailed instructions on submitting comments, see the Procedural Matters section of this document. Note that all comments received will be posted without change

to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Nathan K. Greenwell, Mathematical Statistician, Evaluation Division, NVS–431, National Center for Statistics and Analysis, National Highway Traffic Safety Administration, Room W53–440, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–2570. Email: *nathan.greenwell@dot.gov.*

For information about NHTSA's evaluations of the effectiveness of existing regulations and programs: You may see a list of published evaluation reports at *http://www-nrd.nhtsa.dot.gov/cats/listpublications.aspx?Id=226&ShowBy=Category* and if you click on any report you will be able to view it in PDF format.

SUPPLEMENTARY INFORMATION: The Enhancing Vehicle-to-Vehicle Crash Compatibility Agreement (EVC) was established in 2003 as a voluntary measure to reduce occupant fatalities of passenger cars in crashes with light trucks and vans, including pickup trucks, SUVs, minivans, and full-size vans, generically abbreviated as LTVs. Manufacturers agreed upon voluntary standards for LTVs to reduce the height mismatches between these LTVs and passenger cars. NHTSA statistically compared car-occupant fatality risk in crashes with pickup trucks and SUVs, referred throughout the report as light trucks, built just before and just after self-certification to the agreement based on FARS and Polk data from 2002 to 2010. Overall, there was a statistically significant 8-percent reduction in car-occupant fatalities of passenger cars after light trucks self-certified to the agreement. However, for pickup trucks and SUVs separately, the effectiveness is inconsistent. Pickup trucks experienced a non-significant increase of 5-percent likelihood of occupant fatalities of passenger cars, while SUVs were associated with a significant 17-percent reduction. Furthermore, a supplementary non-parametric analysis does not show fatality reduction for significantly more than 50 percent of the makes and models. Overall, these results provide some evidence that the EVC has reduced fatalities but are not sufficiently strong to permit an unequivocal conclusion that it has been effective in reducing fatality risk to car occupants.

Procedural Matters

How can I influence NHTSA's thinking on this subject?

NHTSA welcomes public review of the technical report. NHTSA will submit to the Docket a response to the comments and, if appropriate, will supplement or revise the report.

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the Docket number of this document (NHTSA–2012–0070) in your comments.

Your primary comments must not be more than 15 pages long (49 CFR 553.21). However, you may attach additional documents to your primary comments. There is no limit on the length of the attachments.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://www.regulations.gov.*

Please send two paper copies of your comments to Docket Management, fax them, or use the Federal eRulemaking Portal. The mailing address is U. S. Department of Transportation, Docket Management Facility, M–30, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The fax number is 1–202–493–2251. To use the Federal eRulemaking Portal, go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

We also request, but do not require you to send a copy to Nathan K. Greenwell, Mathematical Statistician, Evaluation Division, NVS–431, National Highway Traffic Safety Administration, Room W53–440, 1200 New Jersey Avenue SE., Washington, DC 20590 (or email them to *nathan.greenwell@dot.gov*). He can check if your comments have been received at the Docket and he can expedite their review by NHTSA.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, send three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Include a cover letter supplying the information specified in our confidential business information regulation (49 CFR part 512).

In addition, send two copies from which you have deleted the claimed confidential business information to U.S. Department of Transportation, Docket Management Facility, M–30, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, or submit them via the Federal eRulemaking Portal.

Will the agency consider late comments?

In our response, we will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (e.g., the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Authority: 49 U.S.C. 30111, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

Terry Shelton,

Associate Administrator, National Center for Statistics and Analysis.

[FR Doc. 2012–13249 Filed 5–31–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1088X]

Jackson, Gordonville and Delta Railroad Company—Abandonment Exemption—in Cape Girardeau County, MO

Jackson, Gordonville and Delta Railroad Company (JGDR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F–*Exempt Abandonments* to abandon approximately 13.3 miles of rail line between its southern terminus at milepost 149.4 in the City of Delta and its northern terminus at milepost 157.9 near Gordonville, in Cape Girardeau County, Mo. (the line).[1] The line traverses United States Postal Service Zip Codes 63740, 63744, and 63752.

JGDR has certified that: (1) No local traffic has moved over the line for the past 2 years; (2) there is no overhead traffic on the line that has been, or would need to be, rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 3, 2012, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 11, 2012. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 [4] must be filed by June 21, 2012, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to JGDR's representative: W. Robert Alderson, Alderson, Alderson, Weiler, Conklin, Burghart & Crow, L.L.C., 2101 SW. 21st Street, Topeka, KS 66604.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

JGDR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by June 8, 2012. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), JGDR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by JGDR's filing of a notice of consummation by June 1, 2013, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: May 25, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2012–13297 Filed 5–31–12; 8:45 am]

BILLING CODE 4915–01–P

[1] JGDR states that, due to the way the mileposts on the line historically were numbered, from milepost 149.4 at the City of Delta to milepost 147.0 at Allenville is approximately 2.4 miles, and from milepost 147.0 at Allenville to milepost 157.9 near Gordonville is 10.9 miles, for a total of approximately 13.3 miles.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

[4] JGDR states that it has undertaken no separate analysis to determine the line's suitability for use for other public purposes. It further states that it is unaware of any impediment or restriction of title that would bar the use of the line's right-of-way for other public purposes.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35631]

Saratoga and North Creek Railway, LLC–Operation Exemption—Tahawus Line

Saratoga and North Creek Railway, LLC (Saratoga),[1] a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to operate an approximately 29.71-mile line of railroad, known as the Tahawus Line.[2] The rail line extends between the existing connection with Saratoga at milepost NC 0.0 at North Creek and its terminus at milepost NC 29.71 at Newcomb. Saratoga states that it presently owns the line, which it had

[1] Saratoga is a limited liability company, wholly owned by San Luis & Rio Grande Railroad (SLRG). SLRG is a Class III rail carrier and a subsidiary of Permian Basin Railways, Inc. (Permian), which in turn is owned by Iowa Pacific Holdings, LLC (IPH). IPH and Permian formed Saratoga for the purpose of operating the entire rail line running between Newcomb, N.Y., on the north and Saratoga Springs, N.Y., on the south, interchanging traffic with the Delaware & Hudson Railway Company, Inc. d/b/a Canadian Pacific (CP) at Saratoga Springs. In two previous proceedings, the Board authorized Saratoga to operate between Saratoga Springs and Corinth, N.Y., and then between Corinth and North Creek, N.Y. *See Saratoga & N. Creek Ry.—Acquis. & Operation Exemption—Del. & Hudson Ry.,* FD 35500 (STB served June 1, 2011) and *Saratoga & N. Creek Ry.—Operation Exemption—Warren Cnty., N.Y.,* FD 35500 (Sub-No. 1) (STB served June 1, 2011).

[2] Saratoga previously filed a notice of exemption to operate the Tahawus Line in October 2011. The notice of exemption was served and published in the **Federal Register** on November 10, 2011. *See Saratoga & N. Creek Ry.—Operation Exemption—Tahawus Line,* FD 35559 (STB served Nov. 10, 2011). In a decision served on November 23, 2011 (November Decision), the Acting Director of the Office of Proceedings rejected the notice before it became effective. An appeal was filed by Saratoga to the November Decision and the appeal was denied by the Board in a decision served on May 14, 2012 (May 2012 Decision). In the May 2012 decision, the Board stated that subsequent filings have provided sufficient evidence to resolve concerns that led to the notice being rejected, and that now a new notice of exemption may be filed by the railroad. As a result of the May 2012 Decision, this new notice of exemption is being filed.

acquired from NL Industries, Inc. (NL) in 2011 as private track outside of the Board's regulatory jurisdiction under 49 U.S.C. 10901–6.[3] Saratoga intends to provide common carrier rail service over the subject line connecting to its existing trackage at North Creek and extending to its connection with CP at Saratoga Springs. Saratoga points out that there are no agreements applicable to the line imposing any interchange commitments.

Saratoga certifies that as a result of this transaction its projected annual revenues will not exceed $5 million and will not result in Saratoga's becoming a Class I or Class II rail carrier.

Saratoga states that it intends to consummate the transaction at least 30 days from the filing date of the notice. The earliest this transaction can be consummated is June 16, 2012, the effective date of the exemption (30 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than June 8, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35631, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John D. Heffner, Strasburger & Price, 1700 K Street NW., Suite 640, Washington, DC 20006. Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: May 29, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–13322 Filed 5–31–12; 8:45 am]

BILLING CODE 4915–01–P

[3] Saratoga states that the Board found in the May 2012 Decision that Saratoga did not need any Board authority to acquire this trackage as such property was outside the Board's jurisdiction. *See B. Willis, C.P.A., Inc.—Petition for Declaratory Order,* FD 34013 (STB served Oct. 3, 2001) (*B. Willis*)., *aff'd sub nom. B. Willis, C.P.A., Inc.* v. *STB,* 51 Fed Appx. 321 (D.C. Cir. 2002) (private track is typically built and maintained by a shipper (or its contractors) to serve only that shipper, moving the shipper's own goods, so that there is no ''holding out'' to serve other shippers for compensation).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 29, 2012.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before July 2, 2012 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request maybe found at *www.reginfo.gov.*

Bureau of Engraving and Printing (BEP)

OMB Number: 1520–NEW.

Type of Review: New Collection.

Title: Generic Clearance for Meaningful Access Information Collections.

Abstract: A court order was issued in *American Council of the Blind* v. *Paulson,* 591 F. Supp. 2d 1 (D.D.C. 2008) (''*ACB* v. *Paulson''*) requiring the Department of the Treasury and BEP to ''provide meaningful access to United States currency for blind and other visually impaired persons, which steps shall be completed, in connection with each denomination of currency, not later than the date when a redesign of that denomination is next approved by the Secretary of the Treasury * * * .''

In compliance with the court's order, BEP intends to meet individually with blind and visually impaired persons and request their feedback about tactile features that BEP is considering for possible incorporation into the next U.S. paper currency redesign. BEP employees will attend national conventions and conferences for disabled persons. At those gatherings, BEP employees will invite blind and visually impaired persons to provide feedback about certain tactile features being considered for inclusion in future United States currency paper designs.

Affected Public: Individuals and Organizations.

Estimated Total Burden Hours: 167.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–13303 Filed 5–31–12; 8:45 am]

BILLING CODE 4840–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5884–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5884–C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans.

DATES: Written comments should be received on or before July 31, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans.

OMB Number: 1545–2226.

Form Number: Form 5884–C.

Abstract: Form 5884–C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans, was developed as a result of VOW to Hire Heroes Act of 2011, PL 112–56. Section 261 of PL 112–56 expanded the Work Opportunity Credit

to tax-exempt organizations that hire unemployed veterans. The tax credit is a reduction in payroll taxes paid by the tax-exempt organization. Form 5884–C allows a tax-exempt organization a way to claim the credit and provides the IRS the information to process the tax credit.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of currently approved collection.

Affected Public: Individuals or households, business or other for-profit groups, not-for-profit institutions, farms, Federal Government, State, Local, or Tribal Governments.

Estimated Number of Respondents: 60,530.

Estimated Time per Respondent: 6 hours 34 minutes.

Estimated Total Annual Burden Hours: 397,683.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 24, 2012.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–13257 Filed 5–31–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Price for the 2012 American Eagle San Francisco Two-Coin Silver Proof Set

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing the price of the 2012 American Eagle San Francisco Two-Coin Silver Proof Set. The coin set will be offered for sale at a price of $149.95.

FOR FURTHER INFORMATION CONTACT: B.B. Craig, Associate Director for Sales and Marketing; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: May 29, 2012..

Richard A. Peterson,

Deputy Director, United States Mint.

[FR Doc. 2012–13294 Filed 5–31–12; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 77 Friday,
No. 106 June 1, 2012

Part II

Department of Homeland Security

U.S. Customs and Border Protection

Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers; Notice

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of intent to distribute offset for Fiscal Year 2012.

SUMMARY: Pursuant to the Continued Dumping and Subsidy Offset Act of 2000, this document is U.S. Customs and Border Protection's notice of intent to distribute assessed antidumping or countervailing duties (known as the continued dumping and subsidy offset) for Fiscal Year 2012 in connection with countervailing duty orders, antidumping duty orders, or findings under the Antidumping Act of 1921. This document sets forth the case name and number of each order or finding for which funds may become available for distribution, together with the list of affected domestic producers, based on the list supplied by the United States International Trade Commission (USITC) associated with each order or finding, who are potentially eligible to receive a distribution. This document also provides the instructions for affected domestic producers (and anyone alleging eligibility to receive a distribution) to file certifications to claim a distribution in relation to the listed orders or findings.

DATES: Certifications to obtain a continued dumping and subsidy offset under a particular order or finding must be received by July 31, 2012. Any certification received after July 31, 2012 will be denied, making claimants ineligible for the distribution.

ADDRESSES: Certifications and any other correspondence (whether by mail, or an express or courier service) should be addressed to the Assistant Commissioner, Office of Administration, U.S. Customs and Border Protection, Revenue Division, Attention: Melissa Edwards, 6650 Telecom Drive, Suite 100, Indianapolis, IN, 46278.

FOR FURTHER INFORMATION CONTACT: Melissa Edwards, Revenue Division, 6650 Telecom Drive, Suite 100, Indianapolis, IN, 46278; telephone (317) 614–4462.

SUPPLEMENTARY INFORMATION:

Background

The Continued Dumping and Subsidy Offset Act of 2000 (CDSOA) was enacted on October 28, 2000, as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (the ''Act''). The provisions of the CDSOA are contained in title X (§§ 1001–1003) of the Act.

The CDSOA, in § 1003 of the Act, amended title VII of the Tariff Act of 1930, as amended, by adding a new § 754 (codified at 19 U.S.C. 1675c) in order to provide that assessed duties received pursuant to a countervailing duty order, an antidumping duty order, or a finding under the Antidumping Act of 1921 will be distributed to affected domestic producers for certain qualifying expenditures that these producers incur after the issuance of such an order or finding. The term ''affected domestic producer'' means any manufacturer, producer, farmer, rancher or worker representative (including associations of such persons) who:

(A) Was a petitioner or interested party in support of a petition with respect to which an antidumping order, a finding under the Antidumping Act of 1921, or a countervailing duty order that has been entered,

(B) Remains in operation continuing to produce the product covered by a countervailing duty order, an antidumping duty order, or a finding under the Antidumping Act of 1921, and

(C) If a company, has not been acquired by another company or business that is related to a company that opposed the antidumping or countervailing duty investigation that led to the order or finding, e.g., opposed the petition or otherwise presented evidence in opposition to the petition.

The distribution that these parties may receive is known as the continued dumping and subsidy offset.

Section 7601(a) of the Deficit Reduction Act of 2005 repealed 19 U.S.C. 1675c. According to § 7701 of the Deficit Reduction Act, the repeal takes effect as if enacted on October 1, 2005. However, § 7601(b) provided that all duties collected on an entry filed before October 1, 2007, shall be distributed as if 19 U.S.C. 1675c had not been repealed by § 7601(a). The funds available for distribution were also affected by Section 822 of the Claims Resolution Act of 2010 and Section 504 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

Consequently, the full impact of the CDSOA repeal on amounts available for distribution may be delayed for several years. Because of the statutory constraints in the assessments of antidumping and countervailing duties, the distribution process will be continued for an undetermined period; however, the amount of money available for distribution can be expected to diminish over time. It should also be noted that amounts distributed may be subject to recovery as a result of reliquidations, court actions, administrative errors, and other reasons. With the diminishing of the amounts available over time, the likelihood that these events will require the recovery of funds previously distributed will increase. CBP considers the submission of a certification and the negotiation of any distribution checks received as acknowledgements and acceptance of the claimant's obligation to return those funds upon demand.

List of Orders or Findings and Affected Domestic Producers

It is the responsibility of the U.S. International Trade Commission (USITC) to ascertain and timely forward to U.S. Customs and Border Protection (CBP) a list of the affected domestic producers that are potentially eligible to receive an offset in connection with an order or finding. In this regard, it is noted that USITC has supplied CBP with the list of individual antidumping and countervailing duty cases, and the affected domestic producers associated with each case who are potentially eligible to receive an offset. This list appears at the end of this document.

A significant amount of litigation has challenged various provisions of the CDSOA, most notably the definition of the term ''affected domestic producer.'' In two decisions, the Court of Appeals for the Federal Circuit (CAFC) upheld the constitutionality of the support requirement contained in the CDSOA. In *SKF USA, Inc.* v. *United States,* 556 F. 3d 1337 (Fed. Circ. 2009), the CAFC held that the CDSOA's support requirement did not violate either the First Amendment or the Fifth Amendment. The Supreme Court of the United States denied plaintiff's petition for certiorari, 2010 U.S. Lexis 3940 (May 17, 2010). In *PS Chez Sidney, L.L.C.* v. *United States,* 2010 U.S. App. Lexis 22584 (Fed. Circ. 2010), the CAFC summarily reversed the U.S. Court of International Trade's judgment that the support requirement was unconstitutional, allowing only plaintiff's non-constitutional claims to go forward.

As a result, domestic producers who are not on the USITC list but believe they nonetheless are eligible for a CDSOA distribution under one or more antidumping and/or countervailing duty

cases are required, as are all potential claimants that expressly appear on the list, to properly file their certification(s) within 60 days after this notice is published. CBP will evaluate the merits of such claims in accordance with the relevant statutes, regulations, and decisions. Certifications that are not timely filed within the requisite 60 days will be summarily denied.

It should also be noted that the CAFC ruled in *Canadian Lumber Trade Alliance* v. *United States,* 517 F.3d 1319 (Fed. Cir. 2008), *cert. denied sub nom. United States Steel* v. *Canadian Lumber Trade Alliance,* 129 S. Ct. 344 (2008), that CBP was not authorized to distribute such antidumping and countervailing duties to the extent they were derived from goods from countries that are parties to the North American Free Trade Agreement (NAFTA). Due to this decision, CBP will no longer list cases related to NAFTA on the Preliminary Amounts Available report, and no distributions will be issued on these cases.

Regulations Implementing the CDSOA

It is noted that CBP published Treasury Decision (T.D.) 01–68 (Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers) in the **Federal Register** (66 FR 48546) on September 21, 2001, which was effective as of that date, in order to implement the CDSOA. The final rule added a new subpart F to part 159 of title 19, Code of Federal Regulations (19 CFR part 159, subpart F (§§ 159.61–159.64)). More specific guidance regarding the filing of certifications is provided in this notice in order to aid affected domestic producers and other domestic producers alleging eligibility (''claimants'' or ''domestic producers'').

Notice of Intent To Distribute Offset

This document announces that CBP intends to distribute to affected domestic producers the assessed antidumping or countervailing duties that are available for distribution in Fiscal Year 2012 in connection with those antidumping duty orders or findings or countervailing duty orders that are listed in this document. All distribution will be issued by paper check to the address provided by the claimants. Section 159.62(a) of title 19 (19 CFR 159.62(a)) provides that CBP will publish such a notice of intention to distribute assessed duties at least 90 calendar days before the end of a fiscal year. Failure to publish the notice at least 90 calendar days before the end of the fiscal year will not impact an affected domestic producer's obligation to file a timely certification within 60 days after the notice is published. *See, Dixon Ticonderoga* v. *United States,* 468 F.3d 1353, 1354 (Fed. Cir. 2006).

Certifications; Submission and Content

To obtain a distribution of the offset under a given order or finding, an affected domestic producer (and anyone alleging eligibility to receive a distribution) must submit a certification for each order or finding under which a distribution is sought, to CBP, indicating their desire to receive a distribution. To be eligible to obtain a distribution, certifications must be received by CBP no later than 60 calendar days after the date of publication of this notice of intent to distribute in the **Federal Register**. All certifications not received by the 60th day will not be eligible to receive a distribution.

As required by 19 CFR 159.62(b), this notice provides the case name and number of the order or finding concerned, as well as the specific instructions for filing a certification under § 159.63 to claim a distribution. Section 159.62(b) also provides that the dollar amounts subject to distribution that are contained in the Special Account for each listed order or finding are to appear in this notice. However, these dollar amounts were not available in time for inclusion in this publication. The preliminary amounts will be posted on the CBP Web site *(http://www.cbp.gov).* However, the final amounts available for disbursement may be higher or lower than the preliminary amounts.

CBP will provide general information to claimants regarding the preparation of certification(s). However, it remains the sole responsibility of the domestic producer to ensure that the certification is correct, complete, and accurate so as to demonstrate the eligibility of the domestic producer for the distribution requested. Failure to ensure that the certification is correct, complete, and accurate as provided in this notice will result in the domestic producer not receiving a distribution.

Specifically, to obtain a distribution of the offset under a given order or finding, each potential claimant must timely submit a certification containing the required information detailed below as to the eligibility of the domestic producer to receive the requested distribution and the total amount of the distribution that the domestic producer is claiming. Certifications should be submitted to the Assistant Commissioner, Office of Administration, U.S. Customs and Border Protection, Revenue Division. The certification must enumerate the qualifying expenditures incurred by the domestic producer since the issuance of an order or finding and it must demonstrate that the domestic producer is eligible to receive a distribution as an affected domestic producer or allege another basis for eligibility.

A successor to a company that was an affected domestic producer at the time of acquisition should consult 19 CFR 159.61(b)(1)(i). We note that the successor company may assume joint and several liability for the return of any overpayments arising under § 159.64(c)(3) that were previously paid to the predecessor. CBP may require the successor company to provide documents to support its eligibility to receive a distribution as set out in § 159.63(d).

A member company (or its successor) of an association that appears on the list of affected domestic producers in this notice, where the member company itself does not appear on this list, should consult 19 CFR 159.61(b)(1)(ii). Specifically, for a certification under 19 CFR 159.61(b)(1)(ii), the claimant must name the association of which it is a member and specifically establish that it was a member of the association at the time the association filed the petition with the USITC and establish that the company is a current member of the association. In order to promote accurate filings and more efficiently process the distributions, we offer the following guidance. If claimants are members of an association but the association does not file on their behalf, each association will need to provide their members with a statement which contains notarized company specific information including dates of membership, and an original signature from an authorized representative of the association. An association filing a certification on behalf of a member must also provide a power of attorney or other evidence of legal authorization from each of the domestic producers it is representing. An association filing a certification on behalf of a member is responsible for verifying the accuracy of the member's financial records, which support their claim, and is responsible for that certification. Any association filing a certification on behalf of a member is responsible for verifying the legal sufficiency and accuracy of the member's financial records, which support the claim and may be liable for repayment of any claim found to have been paid in error.

The association may file a certification in its own right to claim an offset for that order or finding, but its qualifying expenditures would be

limited to those expenditures that the association itself has incurred after the date of the order or finding in connection with the particular case.

As provided in 19 CFR 159.63(a), certifications to obtain a distribution of an offset must be received by CBP no later than 60 calendar days after the date of publication of the notice of intent in the **Federal Register**. All certifications received after the 60-day deadline will be summarily denied, making claimants ineligible for the distribution regardless of whether or not they appeared on the USITC list.

A list of all certifications received will be published on the CBP Web site shortly after the receipt deadline. This publication will not confirm acceptance or validity of the certification, but merely receipt of the certification. Due to the high volume of certifications, CBP is unable to respond to individual telephone or written inquiries regarding the status of a certification appearing on the list.

While there is no required format for a certification, CBP has developed a standard certification form to aid claimants in filing certifications. Claimants can obtain a copy of the certification form through the link as follows: *https://www.pay.gov/paygov/forms/formInstance.html?&formRevisionId=21514933&file=1302794382215.pdf.*

The certification form is available at *http://www.pay.gov* under Public Form Name entitled CDSOA. The certification form can be submitted electronically through *http://www.pay.gov* or by mail. All certifications not submitted electronically must include original signatures.

Regardless of the format for a certification, per 19 CFR 159.63(b), the certification must contain the following information:

1. The date of this **Federal Register** notice;

2. The Commerce case number;

3. The case name (producer/country);

4. The name of the domestic producer and any name qualifier, if applicable (for example, any other name under which the domestic producer does business or is also known);

5. The mailing address of the domestic producer (if a post office box, the physical street address must also appear) including, if applicable, a specific room number or department;

6. The Internal Revenue Service (IRS) number (with suffix) of the domestic producer, employer identification number, or social security number, as applicable;

7. The specific business organization of the domestic producer (corporation, partnership, sole proprietorship);

8. The name(s) of any individual(s) designated by the domestic producer as the contact person(s) concerning the certification, together with the phone number(s), mailing address, and, if available, facsimile transmission number(s) and electronic mail (email) address(es) for the person(s). Correspondence from CBP will be directed to the designated contact(s) by either mail or phone or both;

9. The total dollar amount claimed;

10. The dollar amount claimed by category, as described in the section below entitled ''Amount Claimed for Distribution'';

11. A statement of eligibility, as described in the section below entitled ''Eligibility to Receive Distribution''; and

12. For certifications not submitted electronically through *http://www.pay.gov,* an original signature by an individual legally authorized to bind the producer.

Qualifying Expenditure Which May Be Claimed for Distribution

Qualifying expenditures which may be offset by a distribution of assessed antidumping and countervailing duties encompass those expenditures that are incurred by the domestic producer after issuance of an antidumping duty order or finding or a countervailing duty order, and prior to its termination, provided that such expenditures fall within certain categories. The repeal language parallels the termination of an order. Therefore, for duty orders or findings that have not been previously revoked, expenses must be incurred before October 1, 2007 to be eligible for offset. For duty orders or findings that have been revoked, expenses must be incurred before the effective date of the revocation to be eligible for offset. For example, assume for case A–331–802 certain frozen warm-water shrimp and prawns from Ecuador, that the order date is February 1, 2005 and that the revocation effective date is August 15, 2007. In this case, eligible expenditures would have to be incurred between February 1, 2005 and August 15, 2007.

For the convenience and ease of the domestic producers, CBP is providing guidance on what the agency takes into consideration when making a calculation for each of the following categories: (1) Manufacturing facilities (Any facility used for the transformation of raw material into a finished product that is the subject of the related order or finding); (2) Equipment (Goods that are used in a business environment to aid in the manufacturing of a product that is the subject of the related order or finding); (3) Research and development (Seeking knowledge and determining the best techniques for production of the product that is the subject of the related order or finding); (4) Personnel training (Teaching of specific useful skills to personnel, that will improve performance in the production process of the product that is the subject of the related order or finding); (5) Acquisition of technology (Acquisition of applied scientific knowledge and materials to achieve an objective in the production process of the product that is the subject of the related order or finding); (6) Health care benefits for employees paid for by the employer (Health care benefits paid to employees who are producing the specific product that is the subject of the related order or finding); (7) Pension benefits for employees paid for by the employer (Pension benefits paid to employees who are producing the specific product that is the subject of the related order or finding); (8) Environmental equipment, training, or technology (Equipment, training, or technology used in the production of the product that is the subject of the related order or finding, that will assist in preventing potentially harmful factors from impacting the environment); (9) Acquisition of raw materials and other inputs (Purchase of unprocessed materials or other inputs needed for the production of the product that is the subject of the related order or finding); and (10) Working capital or other funds needed to maintain production (Assets of a business that can be applied to its production of the product that is the subject of the related order or finding).

Amount Claimed for Distribution

In calculating the amount of the distribution being claimed as an offset, the certification must indicate: (1) The total amount of any qualifying expenditures previously certified by the domestic producer, and the amount certified by category; (2) The total amount of those expenditures which have been the subject of any prior distribution for the order or finding being certified under 19 U.S.C. 1675c; and (3) The net amount for new and remaining qualifying expenditures being claimed in the current certification (the total amount previously certified as noted in item ''(1)'' above minus the total amount that was the subject of any prior distribution as noted in item ''(2)'' above). In accordance with 19 CFR 159.63(b)(2)(i)–(b)(2)(iii), CBP will deduct the amount of any prior distribution from the producer's

claimed amount for that case. Total amounts disbursed by CBP under the CDSOA for Fiscal Years 2001 through 2011 are available on the CBP Web site.

Additionally, under 19 CFR 159.61(c), these qualifying expenditures must be related to the production of the same product that is the subject of the order or finding, with the exception of expenses incurred by associations which must be related to a specific case.

Eligibility To Receive Distribution

As noted, the certification must contain a statement that the domestic producer desires to receive a distribution and is eligible to receive the distribution as an affected domestic producer or on another legal basis. Also, the domestic producer must affirm that the net amount certified for distribution does not encompass any qualifying expenditures for which distribution has previously been made (19 CFR 159.63(b)(3)(i)).

Furthermore, under 19 CFR 159.63(b)(3)(ii), where a domestic producer files a separate certification for more than one order or finding using the same qualifying expenditures as the basis for distribution in each case, each certification must list all the other orders or findings where the producer is claiming the same qualifying expenditures.

Moreover, as required by 19 U.S.C. 1675c(b)(1) and 19 CFR 159.63(b)(3)(iii), the certification must include information as to whether the domestic producer remains in operation at the time the certifications are filed and continues to produce the product covered by the particular order or finding under which the distribution is sought. If a domestic producer is no longer in operation, or no longer produces the product covered by the order or finding, the producer will not be considered an affected domestic producer entitled to receive a distribution.

In addition, as required by 19 U.S.C. 1675c(b)(5) and 19 CFR 159.63(b)(3)(iii), the domestic producer must state whether it has been acquired by a company that opposed the investigation or was acquired by a business related to a company that opposed the investigation. If a domestic producer has been so acquired, the producer will not be considered an affected domestic producer entitled to receive a distribution. However, CBP may not make a final decision regarding a claimant's eligibility to receive funds until certain legal issues which may affect that claimant's eligibility are resolved. In these instances, CBP may withhold an amount of funds corresponding to the claimant's alleged pro rata share of funds from distribution pending the resolution of those legal issues.

The certification must be executed and dated by a party legally authorized to bind the domestic producer and it must state that the information contained in the certification is true and accurate to the best of the certifier's knowledge and belief under penalty of law, and that the domestic producer has records to support the qualifying expenditures being claimed (see section below entitled ''Verification of Certification'').

Moreover as provided in 19 CFR 159.64(b)(3), overpayments to affected domestic producers are recoverable by CBP and CBP reserves the right to use all available collection tools to recover overpayments. Overpayments may occur for a variety of reasons such as reliquidations, court actions, and administrative errors. With the diminishing of the amounts available over time, the likelihood that these events will require the recovery of funds previously distributed will increase. CBP considers the submission of a certification and the negotiation of any distribution checks received as acknowledgements and acceptance of the claimant's obligation to return those funds upon demand.

Review and Correction of Certification

A certification that is submitted in response to this notice of distribution and received within 60 calendar days after the date of publication of the notice in the **Federal Register** may, at CBP's sole discretion, be subject to review before acceptance to ensure that all informational requirements are complied with and that any amounts set forth in the certification for qualifying expenditures, including the amount claimed for distribution, appear to be correct. A certification that is found to be materially incorrect or incomplete will be returned to the domestic producer within 15 business days after the close of the 60 calendar-day filing period, as provided in 19 CFR 159.63(c). In making this determination, CBP will not speculate as to the reason for the error (e.g., intentional, typographical, etc.). CBP must receive a corrected certification from the domestic producer and/or an association filing on behalf of an association member within 10 business days from the date of the original denial letter. Failure to receive a corrected certification within 10 business days will result in denial of the certification at issue. It is the sole responsibility of the domestic producer to ensure that the certification is correct, complete, and satisfactory so as to demonstrate the eligibility of the domestic producer to the distribution requested. Failure to ensure that the certification is correct, complete, and satisfactory will result in the domestic producer not receiving a distribution.

Verification of Certification

Certifications are subject to CBP's verification. Claimants may also be required to provide copies of additional records for further review by CBP. Therefore, parties are required to maintain records supporting their claims for a period of five years after the filing of the certification (19 CFR 159.63(d)). The records must support each qualifying expenditure enumerated in the certification and they must support how the qualifying expenditures are determined to be related to the production of the product covered by the order or finding. Although CBP will accept comments and information from the public and other domestic producers, CBP retains complete discretion regarding the initiation and conduct of investigations stemming from such information.

Disclosure of Information in Certifications; Acceptance by Producer

The name of the claimant, the total dollar amount claimed by the party on the certification, as well as the total dollar amount that CBP actually disburses to that affected domestic producer as an offset, will be available for disclosure to the public, as specified in 19 CFR 159.63(e). To this extent, the submission of the certification is construed as an understanding and acceptance on the part of the domestic producer that this information will be disclosed to the public. Alternatively, a statement in a certification that this information is proprietary and exempt from disclosure will result in CBP's rejection of the certification.

List of Orders or Findings and Related Domestic Producers

The list of individual antidumping duty orders or findings and countervailing duty orders is set forth below together with the affected domestic producers associated with each order or finding who are potentially eligible to receive an offset. Those domestic producers not on the list must allege another basis for eligibility in their certification.

Dated: May 2, 2012,

Deborah Schilling,

Acting Assistant Commissioner, Office of Administration.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–122–006	AA1921–49	Steel Jacks/Canada	Bloomfield Manufacturing (formerly Harrah Manufacturing). Seaburn Metal Products.
A–122–047	AA1921–127	Elemental Sulphur/Canada	Duval.
A–122–085	731–TA–3	Sugar and Syrups/Canada	Amstar Sugar.
A–122–401	731–TA–196	Red Raspberries/Canada	Northwest Food Producers' Association. Oregon Caneberry Commission. Rader Farms. Ron Roberts. Shuksan Frozen Food. Washington Red Raspberry Commission.
A–122–503	731–TA–263	Iron Construction Castings/Canada	Alhambra Foundry. Allegheny Foundry. Bingham & Taylor. Campbell Foundry. Charlotte Pipe & Foundry. Deeter Foundry. East Jordan Foundry. Le Baron Foundry. Municipal Castings. Neenah Foundry. Opelika Foundry. Pinkerton Foundry. Tyler Pipe. US Foundry & Manufacturing. Vulcan Foundry.
A–122–506	731–TA–276	Oil Country Tubular Goods/Canada	CF&I Steel. Copperweld Tubing. Cyclops. KPC. Lone Star Steel. LTV Steel. Maverick Tube. Quanex. US Steel.
A–122–601	731–TA–312	Brass Sheet and Strip/Canada	Allied Industrial Workers of America. American Brass. Bridgeport Brass. Chase Brass & Copper. Hussey Copper. International Association of Machinists & Aerospace Workers. Mechanics Educational Society of America (Local 56). The Miller Company. Olin. Revere Copper Products. United Steelworkers of America.
A–122–605	731–TA–367	Color Picture Tubes/Canada	Industrial Union Department, AFL–CIO. International Association of Machinists & Aerospace Workers. International Brotherhood of Electrical Workers. International Union of Electronic, Electrical, Technical, Salaried and Machine Workers. Philips Electronic Components Group. United Steelworkers of America. Zenith Electronics.
A–122–804	731–TA–422	Steel Rails/Canada	Bethlehem Steel. CF&I Steel.
A–122–814	731–TA–528	Pure Magnesium/Canada	Magnesium Corporation of America.
A–122–822	731–TA–614	Corrosion-Resistant Carbon Steel Flat Products/Canada.	Armco Steel. Bethlehem Steel. California Steel Industries. Geneva Steel. Gulf States Steel. Inland Steel Industries. LTV Steel. Lukens Steel. National Steel. Nextech. Rouge Steel Co.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Sharon Steel.
			Theis Precision Steel.
			Thompson Steel.
			US Steel.
			United Steelworkers of America.
			WCI Steel.
			Weirton Steel.
A–122–823	731–TA–575	Cut-to-Length Carbon Steel Plate/Canada	Bethlehem Steel.
			California Steel Industries.
			Geneva Steel.
			Gulf States Steel.
			Inland Steel Industries.
			Lukens Steel.
			National Steel.
			Nextech.
			Sharon Steel.
			Theis Precision Steel.
			Thompson Steel.
			US Steel.
			United Steelworkers of America.
A–122–830	731–TA–789	Stainless Steel Plate in Coils/Canada	Allegheny Ludlum.
			Armco Steel.
			J&L Specialty Steel.
			Lukens Steel.
			North American Stainless.
A–122–838	731–TA–928	Softwood Lumber/Canada	71 Lumber Co.
			Almond Bros Lbr Co.
			Anthony Timberlands.
			Balfour Lbr Co.
			Ball Lumber.
			Banks Lumber Company.
			Barge Forest Products Co.
			Beadles Lumber Co.
			Bearden Lumber.
			Bennett Lumber.
			Big Valley Band Mill.
			Bighorn Lumber Co Inc.
			Blue Mountain Lumber.
			Buddy Bean Lumber.
			Burgin Lumber Co Ltd.
			Burt Lumber Company.
			C&D Lumber Co.
			Ceda-Pine Veneer.
			Cersosimo Lumber Co Inc.
			Charles Ingram Lumber Co Inc.
			Charleston Heart Pine.
			Chesterfield Lumber.
			Chips.
			Chocorua Valley Lumber Co.
			Claude Howard Lumber.
			Clearwater Forest Industries.
			CLW Inc.
			CM Tucker Lumber Corp.
			Coalition for Fair Lumber Imports Executive Committee.
			Cody Lumber Co.
			Collins Pine Co.
			Collums Lumber.
			Columbus Lumber Co.
			Contoocook River Lumber.
			Conway Guiteau Lumber.
			Cornwright Lumber Co.
			Crown Pacific.
			Daniels Lumber Inc.
			Dean Lumber Co Inc.
			Deltic Timber Corporation.
			Devils Tower Forest Products.
			DiPrizio Pine Sales.
			Dorchester Lumber Co.
			DR Johnson Lumber.
			East Brainerd Lumber Co.
			East Coast Lumber Company.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Eas-Tex Lumber. ECK Wood Products. Ellingson Lumber Co. Elliott Sawmilling. Empire Lumber Co. Evergreen Forest Products. Excalibur Shelving Systems Inc. Exley Lumber Co. FH Stoltze Land & Lumber Co. FL Turlington Lbr Co Inc. Fleming Lumber. Flippo Lumber. Floragen Forest Products. Frank Lumber Co. Franklin Timber Co. Fred Tebb & Sons. Fremont Sawmill. Frontier Resources. Garrison Brothers Lumber Co and Subsidiaries. Georgia Lumber. Gilman Building Products. Godfrey Lumber. Granite State Forest Prod Inc. Great Western Lumber Co. Greenville Molding Inc. Griffin Lumber Company. Guess Brothers Lumber. Gulf Lumber. Gulf States Paper. Guy Bennett Lumber. Hampton Resources. Hancock Lumber. Hankins Inc. Hankins Lumber Co. Harrigan Lumber. Harwood Products. Haskell Lumber Inc. Hatfield Lumber. Hedstrom Lumber. Herrick Millwork Inc. HG Toler & Son Lumber Co Inc. HG Wood Industries LLC. Hogan & Storey Wood Prod. Hogan Lumber Co. Hood Industries. HS Hofler & Sons Lumber Co Inc. Hubbard Forest Ind Inc. HW Culp Lumber Co. Idaho Veneer Co. Industrial Wood Products. Intermountain Res LLC. International Paper. J Franklin Jones Lumber Co Inc. Jack Batte & Sons Inc. Jasper Lumber Company. JD Martin Lumber Co. JE Jones Lumber Co. Jerry G Williams & Sons. JH Knighton Lumber Co. Johnson Lumber Company. Jordan Lumber & Supply. Joseph Timber Co. JP Haynes Lbr Co Inc. JV Wells Inc. JW Jones Lumber. Keadle Lumber Enterprises. Keller Lumber. King Lumber Co. Konkolville Lumber. Langdale Forest Products. Laurel Lumber Company.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Leavitt Lumber Co. Leesville Lumber Co. Limington Lumber Co. Longview Fibre Co. Lovell Lumber Co Inc. M Kendall Lumber Co. Manke Lumber Co. Marriner Lumber Co. Mason Lumber. MB Heath & Sons Lumber Co. MC Dixon Lumber Co Inc. Mebane Lumber Co Inc. Metcalf Lumber Co Inc. Millry Mill Co Inc. Moose Creek Lumber Co. Moose River Lumber. Morgan Lumber Co Inc. Mount Yonah Lumber Co. Nagel Lumber. New Kearsarge Corp. New South. Nicolet Hardwoods. Nieman Sawmills SD. Nieman Sawmills WY. North Florida. Northern Lights Timber & Lumber. Northern Neck Lumber Co. Ochoco Lumber Co. Olon Belcher Lumber Co. Owens and Hurst Lumber. Packaging Corp of America. Page & Hill Forest Products. Paper, Allied-Industrial, Chemical and Energy Workers International Union. Parker Lumber. Pate Lumber Co Inc. PBS Lumber. Pedigo Lumber Co. Piedmont Hardwood Lumber Co. Pine River Lumber Co. Pinecrest Lumber Co. Pleasant River Lumber Co. Pleasant Western Lumber Inc. Plum Creek Timber. Pollard Lumber. Portac. Potlatch. Potomac Supply. Precision Lumber Inc. Pruitt Lumber Inc. R Leon Williams Lumber Co. RA Yancey Lumber. Rajala Timber Co. Ralph Hamel Forest Products. Randy D Miller Lumber. Rappahannock Lumber Co. Regulus Stud Mills Inc. Riley Creek Lumber. Roanoke Lumber Co. Robbins Lumber. Robertson Lumber. Roseburg Forest Products Co. Rough & Ready. RSG Forest Products. Rushmore Forest Products. RY Timber Inc. Sam Mabry Lumber Co. Scotch Lumber. SDS Lumber Co. Seacoast Mills Inc. Seago Lumber. Seattle-Snohomish.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Seneca Sawmill. Shaver Wood Products. Shearer Lumber Products. Shuqualak Lumber. SI Storey Lumber. Sierra Forest Products. Sierra Pacific Industries. Sigfridson Wood Products. Silver City Lumber Inc. Somers Lbr & Mfg Inc. South & Jones. South Coast. Southern Forest Industries Inc. Southern Lumber. St Laurent Forest Products. Starfire Lumber Co. Steely Lumber Co Inc. Stimson Lumber. Summit Timber Co. Sundance Lumber. Superior Lumber. Swanson Superior Forest Products Inc. Swift Lumber. Tamarack Mill. Taylor Lumber & Treating Inc. Temple-Inland Forest Products. Thompson River Lumber. Three Rivers Timber. Thrift Brothers Lumber Co Inc. Timco Inc. Tolleson Lumber. Toney Lumber. TR Miller Mill Co. Tradewinds of Virginia Ltd. Travis Lumber Co. Tree Source Industries Inc. Tri-State Lumber. TTT Studs. United Brotherhood of Carpenters and Joiners. Viking Lumber Co. VP Kiser Lumber Co. Walton Lumber Co Inc. Warm Springs Forest Products. Westvaco Corp. Wilkins, Kaiser & Olsen Inc. WM Shepherd Lumber Co. WR Robinson Lumber Co Inc. Wrenn Brothers Inc. Wyoming Sawmills. Yakama Forest Products. Younce & Ralph Lumber Co Inc. Zip-O-Log Mills Inc.
A–122–840	731–TA–954	Carbon and Certain Alloy Steel Wire Rod/Canada.	AmeriSteel. Birmingham Steel. Cascade Steel Rolling Mills. Connecticut Steel Corp. Co-Steel Raritan. GS Industries. Keystone Consolidated Industries. North Star Steel Texas. Nucor Steel-Nebraska (a division of Nucor Corp). Republic Technologies International. Rocky Mountain Steel Mills.
A–122–847	731–TA–1019B	Hard Red Spring Wheat/Canada	North Dakota Wheat Commission.
A–201–504	731–TA–297	Porcelain-on-Steel Cooking Ware/Mexico	General Housewares.
A–201–601	731–TA–333	Fresh Cut Flowers/Mexico	Burdette Coward. California Floral Council. Floral Trade Council. Florida Flower Association. Gold Coast Uanko Nursery.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Hollandia Wholesale Florist. Manatee Fruit. Monterey Flower Farms. Topstar Nursery.
A–201–802	731–TA–451	Gray Portland Cement and Clinker/Mexico	Alamo Cement. Blue Circle. BoxCrow Cement. Calaveras Cement. Capitol Aggregates. Centex Cement. Florida Crushed Stone. Gifford-Hill. Hanson Permanente Cement. Ideal Basic Industries. Independent Workers of North America (Locals 49, 52, 89, 192 and 471). International Union of Operating Engineers (Local 12). National Cement Company of Alabama. National Cement Company of California. Phoenix Cement. Riverside Cement. Southdown. Tarmac America. Texas Industries.
A–201–805	731–TA–534	Circular Welded Nonalloy Steel Pipe/Mexico	Allied Tube & Conduit. American Tube. Bull Moose Tube. Century Tube. CSI Tubular Products. Cyclops. Laclede Steel. LTV Tubular Products. Maruichi American. Sharon Tube. USX. Western Tube & Conduit. Wheatland Tube.
A–201–806	731–TA–547	Carbon Steel Wire Rope/Mexico	Bridon American. Macwhyte. Paulsen Wire Rope. The Rochester Corporation. United Automobile, Aerospace and Agricultural Implement Workers (Local 960). Williamsport. Wire-rope Works. Wire Rope Corporation of America.
A–201–809	731–TA–582	Cut-to-Length Carbon Steel Plate/Mexico	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
A–201–817	731–TA–716	Oil Country Tubular Goods/Mexico	IPSCO. Koppel Steel. Maverick Tube. Newport Steel. North Star Steel. US Steel. USS/Kobe.
A–201–820	731–TA–747	Fresh Tomatoes/Mexico	Accomack County Farm Bureau. Ad Hoc Group of Florida, California, Georgia, Pennsylvania, South Carolina, Tennessee and Virginia Tomato Growers.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Florida Farm Bureau Federation. Florida Fruit and Vegetable Association. Florida Tomato Exchange. Florida Tomato Growers Exchange. Gadsden County Tomato Growers Association. South Carolina Tomato Association.
A–201–822	731–TA–802	Stainless Steel Sheet and Strip/Mexico	Allegheny Ludlum. Armco. Bethlehem Steel. Carpenter Technology Corp. J&L Specialty Steel. North American Stainless. United Steelworkers of America.
A–201–827	731–TA–848	Large-Diameter Carbon Steel Seamless Pipe/Mexico.	North Star Steel. Timken. US Steel. United Steelworkers of America. USS/Kobe.
A–201–828	731–TA–920	Welded Large Diameter Line Pipe/Mexico	American Cast Iron Pipe. Berg Steel Pipe. Bethlehem Steel. Napa Pipe/Oregon Steel Mills. Saw Pipes USA. Stupp. US Steel.
A–201–830	731–TA–958	Carbon and Certain Alloy Steel Wire Rod/Mexico.	AmeriSteel. Birmingham Steel. Cascade Steel Rolling Mills. Connecticut Steel Corp. Co-Steel Raritan. GS Industries. Keystone Consolidated Industries. North Star Steel Texas. Nucor Steel-Nebraska (a division of Nucor Corp). Republic Technologies International. Rocky Mountain Steel Mills.
A–201–831	731–TA–1027	Prestressed Concrete Steel Wire Strand/Mexico.	American Spring Wire Corp. Insteel Wire Products Co. Sivaco Georgia LLC. Strand Tech Martin Inc. Sumiden Wire Products Corp.
A–201–834	731–TA–1085	Purified Carboxymethylcellulose/Mexico	Aqualon Co a Division of Hercules Inc.
A–274–804	731–TA–961	Carbon and Certain Alloy Steel Wire Rod/Trinidad & Tobago.	AmeriSteel. Birmingham Steel. Cascade Steel Rolling Mills. Connecticut Steel Corp. Co-Steel Raritan. GS Industries. Keystone Consolidated Industries. North Star Steel Texas. Nucor Steel-Nebraska (a division of Nucor Corp). Republic Technologies International. Rocky Mountain Steel Mills.
A–301–602	731–TA–329	Fresh Cut Flowers/Colombia	Burdette Coward. California Floral Council. Floral Trade Council. Florida Flower Association. Gold Coast Uanko Nursery. Hollandia Wholesale Florist. Manatee Fruit. Monterey Flower Farms. Pajaro Valley Greenhouses. Topstar Nursery.
A–307–803	731–TA–519	Gray Portland Cement and Clinker/Venezuela	Florida Crushed Stone. Southdown. Tarmac America.
A–307–805	731–TA–537	Circular Welded Nonalloy Steel Pipe/Venezuela.	Allied Tube & Conduit. American Tube. Bull Moose Tube.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Century Tube. CSI Tubular Products. Cyclops. Laclede Steel. LTV Tubular Products. Maruichi American. Sharon Tube. USX. Western Tube & Conduit. Wheatland Tube.
A–307–807	731–TA–570	Ferrosilicon/Venezuela	AIMCOR. Alabama Silicon. American Alloys. Globe Metallurgical. Oil, Chemical and Atomic Workers (Local 389). Silicon Metaltech. United Autoworkers of America (Local 523). United Steelworkers of America (Locals 2528, 3081, 5171 and 12646).
A–307–820	731–TA–931	Silicomanganese/Venezuela	Eramet Marietta. Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5–0639.
A–331–602	731–TA–331	Fresh Cut Flowers/Ecuador	Burdette Coward. California Floral Council. Floral Trade Council. Florida Flower Association. Gold Coast Uanko Nursery. Hollandia Wholesale Florist. Manatee Fruit. Monterey Flower Farms. Topstar Nursery.
A–337–803	731–TA–768	Fresh Atlantic Salmon/Chile	Atlantic Salmon of Maine. Cooke Aquaculture US. DE Salmon. Global Aqua USA. Island Aquaculture. Maine Coast Nordic. Scan Am Fish Farms. Treats Island Fisheries. Trumpet Island Salmon Farm.
A–337–804	731–TA–776	Preserved Mushrooms/Chile	LK Bowman. Modern Mushroom Farms. Monterey Mushrooms. Mount Laurel Canning. Mushroom Canning. Southwood Farms. Sunny Dell Foods. United Canning.
A–337–806	731–TA–948	Individually Quick Frozen Red Raspberries/ Chile.	A&A Berry Farms. Bahler Farms. Bear Creek Farms. David Burns. Columbia Farms. Columbia Fruit. George Culp. Dobbins Berry Farm. Enfield. Firestone Packing. George Hoffman Farms. Heckel Farms. Wendell Kreder. Curt Maberry. Maberry Packing. Mike & Jean's. Nguyen Berry Farms. Nick's Acres. North Fork. Parson Berry Farm. Pickin 'N' Pluckin. Postage Stamp Farm. Rader.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			RainSweet. Scenic Fruit. Silverstar Farms. Tim Straub. Thoeny Farms. Townsend. Tsugawa Farms. Updike Berry Farms. Van Laeken Farms.
A–351–503	731–TA–262	Iron Construction Castings/Brazil	Alhambra Foundry. Allegheny Foundry. Bingham & Taylor. Campbell Foundry. Charlotte Pipe & Foundry. Deeter Foundry. East Jordan Foundry. Le Baron Foundry. Municipal Castings. Neenah Foundry. Opelika Foundry. Pinkerton Foundry. Tyler Pipe. US Foundry & Manufacturing. Vulcan Foundry.
A–351–505	731–TA–278	Malleable Cast Iron Pipe Fittings/Brazil	Grinnell. Stanley G Flagg. Stockham Valves & Fittings. U-Brand. Ward Manufacturing.
A–351–602	731–TA–308	Carbon Steel Butt-Weld Pipe Fittings/Brazil	Ladish. Mills Iron Works. Steel Forgings. Tube Forgings of America. Weldbend.
A–351–603	731–TA–311	Brass Sheet and Strip/Brazil	Allied Industrial Workers of America. American Brass. Bridgeport Brass. Chase Brass & Copper. Hussey Copper. International Association of Machinists & Aerospace Workers. Mechanics Educational Society of America (Local 56). The Miller Company. Olin. Revere Copper Products. United Steelworkers of America.
A–351–605	731–TA–326	Frozen Concentrated Orange Juice/Brazil	Alcoma Packing. B&W Canning. Berry Citrus Products. Caulkins Indiantown Citrus. Citrus Belle. Citrus World. Florida Citrus Mutual.
A–351–804	731–TA–439	Industrial Nitrocellulose/Brazil	Hercules.
A–351–806	731–TA–471	Silicon Metal/Brazil	American Alloys. Globe Metallurgical. International Union of Electronics, Electrical, Machine and Furniture Workers (Local 693). Oil, Chemical and Atomic Workers (Local 389). Silicon Metaltech. SiMETCO. Textile Processors, Service Trades, Health Care Professional and Technical Employees (Local 60). United Steelworkers of America (Locals 5171, 8538 and 12646).
A–351–809	731–TA–532	Circular Welded Nonalloy Steel Pipe/Brazil	Allied Tube & Conduit. American Tube. Bull Moose Tube. Century Tube.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			CSI Tubular Products. Cyclops. Laclede Steel. LTV Tubular Products. Maruichi American. Sharon Tube. USX. Western Tube & Conduit. Wheatland Tube.
A–351–817	731–TA–574	Cut-to-Length Carbon Steel Plate/Brazil	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
A–351–819	731–TA–636	Stainless Steel Wire Rod/Brazil	AL Tech Specialty Steel. Armco Steel. Carpenter Technology. Republic Engineered Steels. Talley Metals Technology. United Steelworkers of America.
A–351–820	731–TA–641	Ferrosilicon/Brazil	AIMCOR. Alabama Silicon. American Alloys. Globe Metallurgical. Oil, Chemical and Atomic Workers (Local 389). Silicon Metaltech. United Autoworkers of America (Local 523). United Steelworkers of America (Locals 2528, 3081, 5171 and 12646).
A–351–824	731–TA–671	Silicomanganese/Brazil	Elkem Metals. Oil, Chemical and Atomic Workers (Local 3–639).
A–351–825	731–TA–678	Stainless Steel Bar/Brazil	AL Tech Specialty Steel. Carpenter Technology. Crucible Specialty Metals. Electralloy. Republic Engineered Steels. Slater Steels. Talley Metals Technology. United Steelworkers of America.
A–351–826	731–TA–708	Seamless Pipe/Brazil	Koppel Steel. Quanex. Timken. United States Steel.
A–351–828	731–TA–806	Hot-Rolled Carbon Steel Flat Products/Brazil	Acme Steel. Bethlehem Steel. California Steel Industries. Gallatin Steel. Geneva Steel. Gulf States Steel. Independent Steelworkers. IPSCO. Ispat/Inland. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–351–832	731–TA–953	Carbon and Certain Alloy Steel Wire Rod/ Brazil.	Wheeling-Pittsburgh Steel Corp. AmeriSteel. Birmingham Steel. Cascade Steel Rolling Mills. Connecticut Steel Corp. Co-Steel Raritan. GS Industries. Keystone Consolidated Industries. North Star Steel Texas. Nucor Steel-Nebraska (a division of Nucor Corp). Republic Technologies International. Rocky Mountain Steel Mills.
A–351–837	731–TA–1024	Prestressed Concrete Steel Wire Strand/Brazil	American Spring Wire Corp. Insteel Wire Products Co. Sivaco Georgia LLC. Strand Tech Martin Inc. Sumiden Wire Products Corp.
A–351–840	731–TA–1089	Certain Orange Juice/Brazil	A Duda & Sons Inc. Alico Inc. John Barnelt. Ben Hill Griffin Inc. Bliss Citrus. BTS A Florida General Partnership. Cain Groves. California Citrus Mutual. Cedar Haven Inc. Citrus World Inc. Clonts Groves Inc. Davis Enterprises Inc. D Edwards Dickinson. Evans Properties Inc. Florida Citrus Commission. Florida Citrus Mutual. Florida Farm Bureau Federation. Florida Fruit & Vegetable Association. Florida State of Department of Citrus. Flying V Inc. GBS Groves Inc. Graves Brothers Co. H&S Groves. Hartwell Groves Inc. Holly Hill Fruit Products Co. Jack Melton Family Inc. K-Bob Inc. L Dicks Inc. Lake Pickett Partnership Inc. Lamb Revocable Trust Gerilyn Rebecca S Lamb Trustee. Lykes Bros Inc. Martin J McKenna. Orange & Sons Inc. Osgood Groves. William W Parshall. PH Freeman & Sons. Pierie Grove. Raymond & Melissa Pierie. Roper Growers Cooperative. Royal Brothers Groves. Seminole Tribe of Florida Inc. Silverman Groves/Rilla Cooper. Smoak Groves Inc. Sorrells Groves Inc. Southern Gardens Groves Corp. Southern Gardens Processing Corp. Southern Groves Citrus. Sun Ag Inc. Sunkist Growers Inc. Texas Citrus Exchange. Texas Citrus Mutual. Texas Produce Association. Travis Wise Management Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–357–007	731–TA–157	Carbon Steel Wire Rod/Argentina	Uncle Matt's Fresh Inc. Varn Citrus Growers Inc. Atlantic Steel. Continental Steel. Georgetown Steel. North Star Steel. Raritan River Steel.
A–357–405	731–TA–208	Barbed Wire and Barbless Wire Strand/Argentina.	CF&I Steel. Davis Walker. Forbes Steel & Wire. Oklahoma Steel Wire.
A–357–802	731–TA–409	Light-Walled Rectangular Tube/Argentina	Bull Moose Tube. Hannibal Industries. Harris Tube. Maruichi American. Searing Industries. Southwestern Pipe. Western Tube & Conduit.
A–357–804	731–TA–470	Silicon Metal/Argentina	American Alloys. Elkem Metals. Globe Metallurgical. International Union of Electronics, Electrical, Machine and Furniture Workers (Local 693). Oil, Chemical and Atomic Workers (Local 389). Silicon Metaltech. SiMETCO. SKW Alloys. Textile Processors, Service Trades, Health Care Professional and Technical Employees (Local 60). United Steelworkers of America (Locals 5171, 8538 and 12646).
A–357–809	731–TA–707	Seamless Pipe/Argentina	Koppel Steel. Quanex. Timken. United States Steel.
A–357–810	731–TA–711	Oil Country Tubular Goods/Argentina	IPSCO. Koppel Steel. Lone Star Steel. Maverick Tube. Newport Steel. North Star Steel. US Steel. USS/Kobe.
A–357–812	731–TA–892	Honey/Argentina	AH Meyer & Sons. Adee Honey Farms. Althoff Apiaries. American Beekeeping Federation. American Honey Producers Association. Anderson Apiaries. Arroyo Apiaries. Artesian Honey Producers. B Weaver Apiaries. Bailey Enterprises. Barkman Honey. Basler Honey Apiary. Beals Honey. Bears Paw Apiaries. Beaverhead Honey. Bee Biz. Bee Haven Honey. Belliston Brothers Apiaries. Big Sky Honey. Bill Rhodes Honey. Richard E Blake. Curt Bronnenbery. Brown's Honey Farms. Brumley's Bees. Buhmann Apiaries. Carys Honey Farms. Chaparrel Honey.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Charles Apiaries. Mitchell Charles. Collins Honey. Conor Apiaries. Coy's Honey Farm. Dave Nelson Apiaries. Delta Bee. Eisele's Pollination & Honey. Ellingsoa's. Elliott Curtis & Sons. Charles L Emmons, Sr. Gause Honey. Gene Brandi Apiaries. Griffith Honey. Haff Apiaries. Hamilton Bee Farms. Hamilton Honey. Happie Bee. Harvest Honey. Harvey's Honey. Hiatt Honey. Hoffman Honey. Hollman Apiaries. Honey House. Honeybee Apiaries. Gary M Honl. Rand William Honl and Sydney Jo Honl. James R & Joann Smith Trust. Jaynes Bee Products. Johnston Honey Farms. Larry Johnston. Ke-An Honey. Kent Honeybees. Lake-Indianhead Honey Farms. Lamb's Honey Farm. Las Flores Apiaries. Mackrill Honey Farms & Sales. Raymond Marquette. Mason & Sons Honey. McCoy's Sunny South Apiaries. Merrimack Valley Apiaries & Evergreen Honey. Met 2 Honey Farm. Missouri River Honey. Mitchell Brothers Honey. Monda Honey Farm. Montana Dakota Honey. Northern Bloom Honey. Noye's Apiaries. Oakes Honey. Oakley Honey Farms. Old Mill Apiaries. Opp Honey. Oro Dulce. Peterson's ''Naturally Sweet'' Honey. Potoczak Bee Farms. Price Apiaries. Pure Sweet Honey Farms. Robertson Pollination Service. Robson Honey. William Robson. Rosedale Apiaries. Ryan Apiaries. Schmidt Honey Farms. Simpson Apiaries. Sioux Honey Association. Smoot Honey. Solby Honey. Stahlman Apiaries. Steve E Parks Apiaries. Stroope Bee & Honey. T&D Honey Bee.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Talbott's Honey.
			Terry Apiaries.
			Thompson Apiaries.
			Triple A Farm.
			Tropical Blossom Honey.
			Tubbs Apiaries.
			Venable Wholesale.
			Walter L Wilson Buzz 76 Apiaries.
			Wiebersiek Honey Farms.
			Wilmer Farms.
			Brent J Woodworth.
			Wooten's Golden Queens.
			Yaddof Apiaries.
A–357–814	731–TA–898	Hot-Rolled Steel Products/Argentina	Bethlehem Steel.
			Gallatin Steel.
			Independent Steelworkers.
			IPSCO.
			LTV Steel.
			National Steel.
			Nucor.
			Rouge Steel Co.
			Steel Dynamics.
			US Steel.
			United Steelworkers of America.
			WCI Steel Inc.
			Weirton Steel.
			Wheeling-Pittsburgh Steel Corp.
A–401–040	AA1921–114	Stainless Steel Plate/Sweden	Jessop Steel.
A–401–601	731–TA–316	Brass Sheet and Strip/Sweden	Allied Industrial Workers of America.
			American Brass.
			Bridgeport Brass.
			Chase Brass & Copper.
			Hussey Copper.
			International Association of Machinists & Aerospace Workers.
			Mechanics Educational Society of America (Local 56).
			The Miller Company.
			Olin.
			Revere Copper Products.
			United Steelworkers of America.
A–401–603	731–TA–354	Stainless Steel Hollow Products/Sweden	AL Tech Specialty Steel.
			Allegheny Ludlum Steel.
			ARMCO.
			Carpenter Technology.
			Crucible Materials.
			Damacus Tubular Products.
			Specialty Tubing Group.
A–401–801	731–TA–397–A	Ball Bearings/Sweden	Barden Corp.
			Emerson Power Transmission.
			Kubar Bearings.
			MPB.
			Rollway Bearings.
			Torrington.
A–401–801	731–TA–397–B	Cylindrical Roller Bearings/Sweden	Barden Corp.
			Emerson Power Transmission.
			MPB.
			Rollway Bearings.
			Torrington.
A–401–805	731–TA–586	Cut-to-Length Carbon Steel Plate/Sweden	Bethlehem Steel.
			California Steel Industries.
			CitiSteel USA Inc.
			Geneva Steel.
			Gulf States Steel.
			Inland Steel Industries.
			Lukens Steel.
			National Steel.
			Nextech.
			Sharon Steel.
			Theis Precision Steel.
			Thompson Steel.
			US Steel.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			United Steelworkers of America.
A–401–806	731–TA–774	Stainless Steel Wire Rod/Sweden	AL Tech Specialty Steel. Carpenter Technology. Republic Engineered Steels. Talley Metals Technology. United Steelworkers of America.
A–401–808	731–TA–1087	Purified Carboxymethylcellulose/Sweden	Aqualon Co a Division of Hercules Inc.
A–403–801	731–TA–454	Fresh and Chilled Atlantic Salmon/Norway	Heritage Salmon. The Coalition for Fair Atlantic Salmon Trade.
A–405–802	731–TA–576	Cut-to-Length Carbon Steel Plate/Finland	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
A–405–803	731–TA–1084	Purified Carboxymethylcellulose/Finland	Aqualon Co a Division of Hercules Inc.
A–412–801	731–TA–399–A	Ball Bearings/United Kingdom	Barden Corp. Emerson Power Transmission. Kubar Bearings. McGill Manufacturing Co. MPB. Rexnord Inc. Rollway Bearings. Torrington.
A–412–801	731–TA–399–B	Cylindrical Roller Bearings/United Kingdom	Barden Corp. Emerson Power Transmission. MPB. Rollway Bearings. Torrington.
A–412–803	731–TA–443	Industrial Nitrocellulose/United Kingdom	Hercules.
A–412–805	731–TA–468	Sodium Thiosulfate/United Kingdom	Calabrian.
A–412–814	731–TA–587	Cut-to-Length Carbon Steel Plate/United Kingdom.	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
A–412–818	731–TA–804	Stainless Steel Sheet and Strip/United Kingdom.	Allegheny Ludlum. Armco Steel. Bethlehem Steel. Butler Armco Independent Union. Carpenter Technology Corp. J&L Specialty Steel. North American Stainless. United Steelworkers of America. Zanesville Armco Independent Organization.
A–412–822	731–TA–918	Stainless Steel Bar/United Kingdom	Carpenter Technology. Crucible Specialty Metals. Electralloy. Empire Specialty Steel. Republic Technologies International. Slater Steels. United Steelworkers of America.
A–421–701	731–TA–380	Brass Sheet and Strip/Netherlands	Allied Industrial Workers of America. American Brass. Bridgeport Brass.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Chase Brass & Copper. Hussey Copper. International Association of Machinists & Aerospace Workers. Mechanics Educational Society of America (Local 56). The Miller Company. North Coast Brass & Copper. Olin. Pegg Metals. Revere Copper Products. United Steelworkers of America.
A–421–804	731–TA–608	Cold-Rolled Carbon Steel Flat Products/Netherlands.	Armco Steel. Bethlehem Steel. California Steel Industries. Gulf States Steel. Inland Steel Industries. LTV Steel. National Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel.
A–421–805	731–TA–652	Aramid Fiber/Netherlands	E I du Pont de Nemours.
A–421–807	731–TA–903	Hot-Rolled Steel Products/Netherlands	Bethlehem Steel. Gallatin Steel. Independent Steelworkers. IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
A–421–811	731–TA–1086	Purified Carboxymethylcellulose/Netherlands	Aqualon Co a Division of Hercules Inc.
A–423–077	AA1921–198	Sugar/Belgium	Florida Sugar Marketing and Terminal Association.
A–423–602	731–TA–365	Industrial Phosphoric Acid/Belgium	Albright & Wilson. FMC. Hydrite Chemical. Monsanto. Stauffer Chemical.
A–423–805	731–TA–573	Cut-to-Length Carbon Steel Plate/Belgium	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
A–423–808	731–TA–788	Stainless Steel Plate in Coils/Belgium	Allegheny Ludlum. Armco Steel. Lukens Steel. North American Stainless. United Steelworkers of America.
A–427–001	731–TA–44	Sorbitol/France	Lonza. Pfizer.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–427–009	731–TA–96	Industrial Nitrocellulose/France	Hercules.
A–427–078	AA1921–199	Sugar/France	Florida Sugar Marketing and Terminal Association.
A–427–098	731–TA–25	Anhydrous Sodium Metasilicate/France	PQ.
A–427–602	731–TA–313	Brass Sheet and Strip/France	Allied Industrial Workers of America. American Brass. Bridgeport Brass. Chase Brass & Copper. Hussey Copper. International Association of Machinists & Aerospace Workers. Mechanics Educational Society of America (Local 56). The Miller Company. Olin. Revere Copper Products. United Steelworkers of America.
A–427–801	731–TA–392–A	Ball Bearings/France	Barden Corp. Emerson Power Transmission. Kubar Bearings. McGill Manufacturing Co. MPB. Rexnord Inc. Rollway Bearings. Torrington.
A–427–801	731–TA–392–B	Cylindrical Roller Bearings/France	Barden Corp. Emerson Power Transmission. MPB. Rollway Bearings. Torrington.
A–427–801	731–TA–392–C	Spherical Plain Bearings/France	Barden Corp. Emerson Power Transmission. Kubar Bearings. McGill Manufacturing Co. Rexnord Inc. Rollway Bearings. Torrington.
A–427–804	731–TA–553	Hot-Rolled Lead and Bismuth Carbon Steel Products/France.	Bethlehem Steel. Inland Steel Industries. USS/Kobe Steel.
A–427–808	731–TA–615	Corrosion-Resistant Carbon Steel Flat Products/France.	Armco Steel. Bethlehem Steel. California Steel Industries. Geneva Steel. Gulf States Steel. Inland Steel Industries. LTV Steel. Lukens Steel. National Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel.
A–427–811	731–TA–637	Stainless Steel Wire Rod/France	AL Tech Specialty Steel. Armco Steel. Carpenter Technology. Republic Engineered Steels. Talley Metals Technology. United Steelworkers of America.
A–427–814	731–TA–797	Stainless Steel Sheet and Strip/France	Allegheny Ludlum. Armco Steel. Bethlehem Steel. Butler Armco Independent Union. Carpenter Technology Corp. North American Stainless. United Steelworkers of America. Zanesville Armco Independent Organization.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–427–816	731–TA–816	Cut-to-Length Carbon Steel Plate/France	Bethlehem Steel. Geneva Steel. IPSCO Steel. National Steel. US Steel. United Steelworkers of America.
A–427–818	731–TA–909	Low Enriched Uranium/France	United States Enrichment Corp. USEC Inc.
A–427–820	731–TA–913	Stainless Steel Bar/France	Carpenter Technology. Crucible Specialty Metals. Electralloy. Empire Specialty Steel. Republic Technologies International. Slater Steels. United Steelworkers of America.
A–428–082	AA1921–200	Sugar/Germany	Florida Sugar Marketing and Terminal Association.
A–428–602	731–TA–317	Brass Sheet and Strip/Germany	Allied Industrial Workers of America. American Brass. Bridgeport Brass. Chase Brass & Copper. Hussey Copper. International Association of Machinists & Aerospace Workers. Mechanics Educational Society of America (Local 56). The Miller Company. Olin. Revere Copper Products. United Steelworkers of America.
A–428–801	731–TA–391–A	Ball Bearings/Germany	Barden Corp. Emerson Power Transmission. Kubar Bearings. McGill Manufacturing Co. MPB. Rexnord Inc. Rollway Bearings. Torrington.
A–428–801	731–TA–391–B	Cylindrical Roller Bearings/Germany	Barden Corp. Emerson Power Transmission. MPB. Rollway Bearings. Torrington.
A–428–801	731–TA–391–C	Spherical Plain Bearings/Germany	Barden Corp. Emerson Power Transmission. Rollway Bearings. Torrington.
A–428–802	731–TA–419	Industrial Belts/Germany	The Gates Rubber Company. The Goodyear Tire and Rubber Company.
A–428–803	731–TA–444	Industrial Nitrocellulose/Germany	Hercules.
A–428–807	731–TA–465	Sodium Thiosulfate/Germany	Calabrian.
A–428–814	731–TA–604	Cold-Rolled Carbon Steel Flat Products/Germany.	Armco Steel. Bethlehem Steel. California Steel Industries. Gulf States Steel. Inland Steel Industries. LTV Steel. National Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel.
A–428–815	731–TA–616	Corrosion-Resistant Carbon Steel Flat Products/Germany.	Armco Steel. Bethlehem Steel. California Steel Industries. Geneva Steel. Gulf States Steel.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Inland Steel Industries. LTV Steel. Lukens Steel. National Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel.
A–428–816	731–TA–578	Cut-to-Length Carbon Steel Plate/Germany	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
A–428–820	731–TA–709	Seamless Pipe/Germany	Koppel Steel. Quanex. Timken. United States Steel.
A–428–821	731–TA–736	Large Newspaper Printing Presses/Germany	Rockwell Graphics Systems.
A–428–825	731–TA–798	Stainless Steel Sheet and Strip/Germany	Allegheny Ludlum. Armco Steel. Bethlehem Steel. Butler Armco Independent Union. Carpenter Technology Corp. J&L Specialty Steel. North American Stainless. United Steelworkers of America. Zanesville Armco Independent Organization.
A–428–830	731–TA–914	Stainless Steel Bar/Germany	Carpenter Technology. Crucible Specialty Metals. Electralloy. Empire Specialty Steel. Republic Technologies International. Slater Steels. United Steelworkers of America.
A–437–601	731–TA–341	Tapered Roller Bearings/Hungary	L&S Bearing. Timken. Torrington.
A–437–804	731–TA–426	Sulfanilic Acid/Hungary	Nation Ford Chemical.
A–447–801	731–TA–340C	Solid Urea/Estonia	Agrico Chemical. American Cyanamid. CF Industries. First Mississippi. Mississippi Chemical. Terra International. WR Grace.
A–449–804	731–TA–878	Steel Concrete Reinforcing Bar/Latvia	AB Steel Mill Inc. AmeriSteel. Auburn Steel. Birmingham Steel. Border Steel. Cascade Steel Rolling Mills Inc. CMC Steel Group. Co-Steel Inc. Marion Steel. North Star Steel Co. Nucor Steel. Rebar Trade Action Coalition. Riverview Steel.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Sheffield Steel. TAMCO. TXI-Chaparral Steel Co.
A–451–801	731–TA–340D	Solid Urea/Lithuania	Agrico Chemical. American Cyanamid. CF Industries. First Mississippi. Mississippi Chemical. Terra International. WR Grace.
A–455–802	731–TA–583	Cut-to-Length Carbon Steel Plate/Poland	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
A–455–803	731–TA–880	Steel Concrete Reinforcing Bar/Poland	AB Steel Mill Inc. AmeriSteel. Auburn Steel. Birmingham Steel. Border Steel. Cascade Steel Rolling Mills Inc. CMC Steel Group. Co-Steel Inc. Marion Steel. North Star Steel Co. Nucor Steel. Rebar Trade Action Coalition. Riverview Steel. Sheffield Steel. TAMCO. TXI-Chaparral Steel Co.
A–469–007	731–TA–126	Potassium Permanganate/Spain	Carus Chemical.
A–469–803	731–TA–585	Cut-to-Length Carbon Steel Plate/Spain	Bethlehem Steel. California Steel Industries. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
A–469–805	731–TA–682	Stainless Steel Bar/Spain	AL Tech Specialty Steel. Carpenter Technology. Crucible Specialty Metals. Electralloy. Republic Engineered Steels. Slater Steels. Talley Metals Technology. United Steelworkers of America.
A–469–807	731–TA–773	Stainless Steel Wire Rod/Spain	AL Tech Specialty Steel. Carpenter Technology. Republic Engineered Steels. Talley Metals Technology. United Steelworkers of America.
A–469–810	731–TA–890	Stainless Steel Angle/Spain	Slater Steels. United Steelworkers of America.
A–469–814	731–TA–1083	Chlorinated Isocyanurates/Spain	BioLab Inc. Clearon Corp. Occidental Chemical Corp.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–471–806	731–TA–427	Sulfanilic Acid/Portugal	Nation Ford Chemical.
A–475–059	AA1921–167	Pressure-Sensitive Plastic Tape/Italy	Minnesota Mining & Manufacturing.
A–475–601	731–TA–314	Brass Sheet and Strip/Italy	Allied Industrial Workers of America. American Brass. Bridgeport Brass. Chase Brass & Copper. Hussey Copper. International Association of Machinists & Aerospace Workers. Mechanics Educational Society of America (Local 56). The Miller Company. Olin. Revere Copper Products. United Steelworkers of America.
A–475–703	731–TA–385	Granular Polytetrafluoroethylene/Italy	E I du Pont de Nemours. ICI Americas.
A–475–801	731–TA–393–A	Ball Bearings/Italy	Barden Corp. Emerson Power Transmission. Kubar Bearings. McGill Manufacturing Co. MPB. Rexnord Inc. Rollway Bearings. Torrington.
A–475–801	731–TA–393–B	Cylindrical Roller Bearings/Italy	Barden Corp. Emerson Power Transmission. MPB. Rollway Bearings. Torrington.
A–475–802	731–TA–413	Industrial Belts/Italy	The Gates Rubber Company. The Goodyear Tire and Rubber Company.
A–475–811	731–TA–659	Grain-Oriented Silicon Electrical Steel/Italy	Allegheny Ludlum. Armco Steel. Butler Armco Independent Union. United Steelworkers of America. Zanesville Armco Independent Union.
A–475–814	731–TA–710	Seamless Pipe/Italy	Koppel Steel. Quanex. Timken. United States Steel.
A–475–816	731–TA–713	Oil Country Tubular Goods/Italy	Bellville Tube. IPSCO. Koppel Steel. Lone Star Steel. Maverick Tube. Newport Steel. North Star Steel. US Steel. USS/Kobe.
A–475–818	731–TA–734	Pasta/Italy	A Zerega's Sons. American Italian Pasta. Borden. D Merlino & Sons. Dakota Growers Pasta. Foulds. Gilster-Mary Lee. Gooch Foods. Hershey Foods. LaRinascente Macaroni Co. Pasta USA. Philadelphia Macaroni. ST Specialty Foods.
A–475–820	731–TA–770	Stainless Steel Wire Rod/Italy	AL Tech Specialty Steel. Carpenter Technology. Republic Engineered Steels. Talley Metals Technology. United Steelworkers of America.
A–475–822	731–TA–790	Stainless Steel Plate in Coils/Italy	Allegheny Ludlum. Armco Steel. J&L Specialty Steel. Lukens Steel.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–475–824	731–TA–799	Stainless Steel Sheet and Strip/Italy	North American Stainless. United Steelworkers of America. Allegheny Ludlum. Armco Steel. Bethlehem Steel. Butler Armco Independent Union. Carpenter Technology Corp. J&L Specialty Steel. North American Stainless. United Steelworkers of America. Zanesville Armco Independent Organization.
A–475–826	731–TA–819	Cut-to-Length Carbon Steel Plate/Italy	Bethlehem Steel. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. IPSCO Steel. National Steel. US Steel. United Steelworkers of America.
A–475–828	731–TA–865	Stainless Steel Butt-Weld Pipe Fittings/Italy	Flo-Mac Inc. Gerlin. Markovitz Enterprises. Shaw Alloy Piping Products. Taylor Forge Stainless.
A–475–829	731–TA–915	Stainless Steel Bar/Italy	Carpenter Technology. Crucible Specialty Metals. Electralloy. Empire Specialty Steel. Republic Technologies International. Slater Steels. United Steelworkers of America.
A–479–801	731–TA–445	Industrial Nitrocellulose/Yugoslavia	Hercules.
A–484–801	731–TA–406	Electrolytic Manganese Dioxide/Greece	Chemetals. Kerr-McGee. Rayovac.
A–485–601	731–TA–339	Solid Urea/Romania	Agrico Chemical. American Cyanamid. CF Industries. First Mississippi. Mississippi Chemical. Terra International. WR Grace.
A–485–602	731–TA–345	Tapered Roller Bearings/Romania	L&S Bearing. Timken. Torrington.
A–485–801	731–TA–395	Ball Bearings/Romania	Barden Corp. Emerson Power Transmission. Kubar Bearings. MPB. Rollway Bearings. Torrington.
A–485–803	731–TA–584	Cut-to-Length Carbon Steel Plate/Romania	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
A–485–805	731–TA–849	Small-Diameter Carbon Steel Seamless Pipe/ Romania.	Koppel Steel. North Star Steel. Sharon Tube. Timken. US Steel. United Steelworkers of America. USS/Kobe.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Vision Metals' Gulf States Tube.
A–485–806	731–TA–904	Hot-Rolled Steel Products/Romania	Bethlehem Steel. Gallatin Steel. Independent Steelworkers. IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
A–489–501	731–TA–273	Welded Carbon Steel Pipe and Tube/Turkey	Allied Tube & Conduit. American Tube. Bernard Epps. Bock Industries. Bull Moose Tube. Central Steel Tube. Century Tube. Copperweld Tubing. Cyclops. Hughes Steel & Tube. Kaiser Steel. Laclede Steel. Maruichi American. Maverick Tube. Merchant Metals. Phoenix Steel. Pittsburgh Tube. Quanex. Sharon Tube. Southwestern Pipe. UNR-Leavitt. Welded Tube. Western Tube & Conduit. Wheatland Tube.
A–489–602	731–TA–364	Aspirin/Turkey	Dow Chemical. Monsanto. Norwich-Eaton.
A–489–805	731–TA–735	Pasta/Turkey	A Zerega's Sons. American Italian Pasta. Borden. D Merlino & Sons. Dakota Growers Pasta. Foulds. Gilster-Mary Lee. Gooch Foods. Hershey Foods. LaRinascente Macaroni Co. Pasta USA. Philadelphia Macaroni. ST Specialty Foods.
A–489–807	731–TA–745	Steel Concrete Reinforcing Bar/Turkey	AmeriSteel. Auburn Steel. Birmingham Steel. Commercial Metals. Marion Steel. New Jersey Steel.
A–507–502	731–TA–287	Raw In-Shell Pistachios/Iran	Blackwell Land. California Pistachio Orchard. Keenan Farms. Kern Pistachio Hulling & Drying. Los Ranchos de Poco Pedro. Pistachio Producers of California. TM Duche Nut.
A–508–604	731–TA–366	Industrial Phosphoric Acid/Israel	Albright & Wilson. FMC. Hydrite Chemical. Monsanto.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Stauffer Chemical.
A–533–502	731–TA–271	Welded Carbon Steel Pipe and Tube/India	Allied Tube & Conduit. American Tube. Bernard Epps. Bock Industries. Bull Moose Tube. Central Steel Tube. Century Tube. Copperweld Tubing. Cyclops. Hughes Steel & Tube. Kaiser Steel. Laclede Steel. Maruichi American. Maverick Tube. Merchant Metals. Phoenix Steel. Pittsburgh Tube. Quanex. Sharon Tube. Southwestern Pipe. UNR-Leavitt. Welded Tube. Western Tube & Conduit. Wheatland Tube.
A–533–806	731–TA–561	Sulfanilic Acid/India	R–M Industries.
A–533–808	731–TA–638	Stainless Steel Wire Rod/India	AL Tech Specialty Steel. Armco Steel. Carpenter Technology. Republic Engineered Steels. Talley Metals Technology. United Steelworkers of America.
A–533–809	731–TA–639	Forged Stainless Steel Flanges/India	Gerlin. Ideal Forging. Maass Flange. Markovitz Enterprises.
A–533–810	731–TA–679	Stainless Steel Bar/India	AL Tech Specialty Steel. Carpenter Technology. Crucible Specialty Metals. Electralloy. Republic Engineered Steels. Slater Steels. Talley Metals Technology. United Steelworkers of America.
A–533–813	731–TA–778	Preserved Mushrooms/India	LK Bowman. Modern Mushroom Farms. Monterey Mushrooms. Mount Laurel Canning. Mushroom Canning. Southwood Farms. Sunny Dell Foods. United Canning.
A–533–817	731–TA–817	Cut-to-Length Carbon Steel Plate/India	Bethlehem Steel. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. IPSCO Steel. National Steel. Tuscaloosa Steel. US Steel. United Steelworkers of America.
A–533–820	731–TA–900	Hot-Rolled Steel Products/India	Bethlehem Steel. Gallatin Steel. Independent Steelworkers. IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			WCI Steel Inc.
			Weirton Steel.
			Wheeling-Pittsburgh Steel Corp.
A–533–823	731–TA–929	Silicomanganese/India	Eramet Marietta.
			Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5–0639.
A–533–824	731–TA–933	Polyethylene Terephthalate Film, Sheet and Strip (PET Film)/India.	DuPont Teijin Films.
			Mitsubishi Polyester Film LLC.
			SKC America Inc.
			Toray Plastics (America).
A–533–828	731–TA–1025	Prestressed Concrete Steel Wire Strand/India	American Spring Wire Corp.
			Insteel Wire Products Co.
			Sivaco Georgia LLC.
			Strand Tech Martin Inc.
			Sumiden Wire Products Corp.
A–533–838	731–TA–1061	Carbazole Violet Pigment 23/India	Allegheny Color Corp.
			Barker Fine Color Inc.
			Clariant Corp.
			Nation Ford Chemical Co.
			Sun Chemical Co.
A–533–843	731–TA–1096	Certain Lined Paper School Supplies/India	Fay Paper Products Inc.
			MeadWestvaco Consumer & Office Products.
			Norcom Inc.
			Pacon Corp.
			Roaring Spring Blank Book Co.
			Top Flight Inc.
			United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (USW).
A–538–802	731–TA–514	Cotton Shop Towels/Bangladesh	Milliken.
A–549–502	731–TA–252	Welded Carbon Steel Pipe and Tube/Thailand	Allied Tube & Conduit.
			American Tube.
			Bernard Epps.
			Bock Industries.
			Bull Moose Tube.
			Central Steel Tube.
			Century Tube.
			Copperweld Tubing.
			Cyclops.
			Hughes Steel & Tube.
			Kaiser Steel.
			Laclede Steel.
			Maruichi American.
			Maverick Tube.
			Merchant Metals.
			Phoenix Steel.
			Pittsburgh Tube.
			Quanex.
			Sharon Tube.
			Southwestern Pipe.
			UNR-Leavitt.
			Welded Tube.
			Western Tube & Conduit.
			Wheatland Tube.
A–549–601	731–TA–348	Malleable Cast Iron Pipe Fittings/Thailand	Grinnell.
			Stanley G Flagg.
			Stockham Valves & Fittings.
			U-Brand.
			Ward Manufacturing.
A–549–807	731–TA–521	Carbon Steel Butt-Weld Pipe Fittings/Thailand	Hackney.
			Ladish.
			Mills Iron Works.
			Steel Forgings.
			Tube Forgings of America.
A–549–812	731–TA–705	Furfuryl Alcohol/Thailand	QO Chemicals.
A–549–813	731–TA–706	Canned Pineapple/Thailand	International Longshoreman's and Warehouseman's Union.
			Maui Pineapple.
A–549–817	731–TA–907	Hot-Rolled Steel Products/Thailand	Bethlehem Steel.
			Gallatin Steel.
			Independent Steelworkers.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
A–549–820	731–TA–1028	Prestressed Concrete Steel Wire Strand/Thailand.	American Spring Wire Corp. Insteel Wire Products Co. Sivaco Georgia LLC. Strand Tech Martin Inc. Sumiden Wire Products Corp.
A–549–821	731–TA–1045	Polyethylene Retail Carrier Bags/Thailand	Aargus Plastics Inc. Advance Polybags Inc. Advance Polybags (Nevada) Inc. Advance Polybags (Northeast) Inc. Alpha Industries Inc. Alpine Plastics Inc. Ampac Packaging LLC. API Enterprises Inc. Command Packaging. Continental Poly Bags Inc. Durabag Co Inc. Europackaging LLC. Genpak LLC (formerly Continental Superbag LLC). Genpak LLC (formerly Strout Plastics). Hilex Poly Co LLC. Inteplast Group Ltd. PCL Packaging Inc. Poly-Pak Industries Inc. Roplast Industries Inc. Superbag Corp. Unistar Plastics LLC. Vanguard Plastics Inc. VS Plastics LLC.
A–552–801	731–TA–1012	Certain Frozen Fish Fillets/Vietnam	America's Catch Inc. Aquafarms Catfish Inc. Carolina Classics Catfish Inc. Catfish Farmers of America. Consolidated Catfish Companies Inc. Delta Pride Catfish Inc. Fish Processors Inc. Guidry's Catfish Inc. Haring's Pride Catfish. Harvest Select Catfish (Alabama Catfish Inc). Heartland Catfish Co (TT&W Farm Products Inc). Prairie Lands Seafood (Illinois Fish Farmers Cooperative). Pride of the Pond. Pride of the South Catfish Inc. Prime Line Inc. Seabrook Seafood Inc. Seacat (Arkansas Catfish Growers). Simmons Farm Raised Catfish Inc. Southern Pride Catfish LLC. Verret Fisheries Inc.
A–557–805	731–TA–527	Extruded Rubber Thread/Malaysia	Globe Manufacturing. North American Rubber Thread. Flo-Mac Inc.
A–557–809	731–TA–866	Stainless Steel Butt-Weld Pipe Fittings/Malaysia.	Gerlin. Markovitz Enterprises. Shaw Alloy Piping Products. Taylor Forge Stainless.
A–557–813	731–TA–1044	Polyethylene Retail Carrier Bags/Malaysia	Aargus Plastics Inc. Advance Polybags Inc. Advance Polybags (Nevada) Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Advance Polybags (Northeast) Inc. Alpha Industries Inc. Alpine Plastics Inc. Ampac Packaging LLC. API Enterprises Inc. Command Packaging. Continental Poly Bags Inc. Durabag Co Inc. Europackaging LLC. Genpak LLC (formerly Continental Superbag LLC). Genpak LLC (formerly Strout Plastics). Hilex Poly Co LLC. Inteplast Group Ltd. PCL Packaging Inc. Poly-Pak Industries Inc. Roplast Industries Inc. Superbag Corp. Unistar Plastics LLC. Vanguard Plastics Inc. VS Plastics LLC.
A–559–502	731–TA–296	Small Diameter Standard and Rectangular Pipe and Tube/Singapore.	Allied Tube & Conduit. American Tube. Bull Moose Tube. Cyclops. Hannibal Industries. Laclede Steel. Pittsburgh Tube. Sharon Tube. Western Tube & Conduit. Wheatland Tube.
A–559–601	731–TA–370	Color Picture Tubes/Singapore	Industrial Union Department, AFL–CIO. International Association of Machinists & Aerospace Workers. International Brotherhood of Electrical Workers. International Union of Electronic, Electrical, Technical, Salaried and Machine Workers. Philips Electronic Components Group. United Steelworkers of America. Zenith Electronics.
A–559–801	731–TA–396	Ball Bearings/Singapore	Barden Corp. Emerson Power Transmission. Kubar Bearings. McGill Manufacturing Co. MPB. Rexnord Inc. Rollway Bearings. Torrington.
A–559–802	731–TA–415	Industrial Belts/Singapore	The Gates Rubber Company. The Goodyear Tire and Rubber Company.
A–560–801	731–TA–742	Melamine Institutional Dinnerware/Indonesia	Carlisle Food Service Products. Lexington United. Plastics Manufacturing.
A–560–802	731–TA–779	Preserved Mushrooms/Indonesia	LK Bowman. Modern Mushroom Farms. Monterey Mushrooms. Mount Laurel Canning. Mushroom Canning. Southwood Farms. Sunny Dell Foods. United Canning.
A–560–803	731–TA–787	Extruded Rubber Thread/Indonesia	North American Rubber Thread.
A–560–805	731–TA–818	Cut-to-Length Carbon Steel Plate/Indonesia	Bethlehem Steel. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. IPSCO Steel. National Steel. Tuscaloosa Steel. US Steel. United Steelworkers of America.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–560–811	731–TA–875	Steel Concrete Reinforcing Bar/Indonesia	AB Steel Mill Inc. AmeriSteel. Birmingham Steel. Border Steel. Cascade Steel Rolling Mills Inc. CMC Steel Group. Co-Steel Inc. Marion Steel. North Star Steel Co. Nucor Steel. Rebar Trade Action Coalition. Riverview Steel. Sheffield Steel. TAMCO. TXI-Chaparral Steel Co.
A–560–812	731–TA–901	Hot-Rolled Steel Products/Indonesia	Bethlehem Steel. Gallatin Steel. Independent Steelworkers. IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
A–560–815	731–TA–957	Carbon and Certain Alloy Steel Wire Rod/Indonesia.	AmeriSteel. Birmingham Steel. Cascade Steel Rolling Mills. Connecticut Steel Corp. Co-Steel Raritan. GS Industries. Keystone Consolidated Industries. North Star Steel Texas. Nucor Steel-Nebraska (a division of Nucor Corp). Republic Technologies International. Rocky Mountain Steel Mills.
A–560–818	731–TA–1097	Certain Lined Paper School Supplies/Indonesia.	Fay Paper Products Inc. MeadWestvaco Consumer & Office Products. Norcom Inc. Pacon Corp. Roaring Spring Blank Book Co. Top Flight Inc. United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (USW).
A–565–801	731–TA–867	Stainless Steel Butt-Weld Pipe Fittings/Philippines.	Flo-Mac Inc. Gerlin. Markovitz Enterprises. Shaw Alloy Piping Products. Taylor Forge Stainless.
A–570–001	731–TA–125	Potassium Permanganate/China	Carus Chemical.
A–570–002	731–TA–130	Chloropicrin/China	LCP Chemicals & Plastics. Niklor Chemical.
A–570–003	731–TA–103	Cotton Shop Towels/China	Milliken. Texel Industries. Wikit.
A–570–007	731–TA–149	Barium Chloride/China	Chemical Products.
A–570–101	731–TA–101	Greige Polyester Cotton Printcloth/China	Alice Manufacturing. Clinton Mills. Dan River. Greenwood Mills. Hamrick Mills. M Lowenstein. Mayfair Mills. Mount Vernon Mills.
A–570–501	731–TA–244	Natural Bristle Paint Brushes/China	Baltimore Brush.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Bestt Liebco.
			Elder & Jenks.
			EZ Paintr.
			H&G Industries.
			Joseph Lieberman & Sons.
			Purdy.
			Rubberset.
			Thomas Paint Applicators.
			Wooster Brush.
A–570–502	731–TA–265	Iron Construction Castings/China	Alhambra Foundry.
			Allegheny Foundry.
			Bingham & Taylor.
			Campbell Foundry.
			Charlotte Pipe & Foundry.
			Deeter Foundry.
			East Jordan Foundry.
			Le Baron Foundry.
			Municipal Castings.
			Neenah Foundry.
			Opelika Foundry.
			Pinkerton Foundry.
			Tyler Pipe.
			US Foundry & Manufacturing.
			Vulcan Foundry.
A–570–504	731–TA–282	Petroleum Wax Candles/China	The AI Root Company.
			Candle Artisans Inc.
			Candle-Lite.
			Cathedral Candle.
			Colonial Candle of Cape Cod.
			General Wax & Candle.
			Lenox Candles.
			Lumi-Lite Candle.
			Meuch-Kreuzer Candle.
			National Candle Association.
			Will & Baumer.
			WNS.
A–570–506	731–TA–298	Porcelain-on-Steel Cooking Ware/China	General Housewares.
A–570–601	731–TA–344	Tapered Roller Bearings/China	L&S Bearing.
			Timken.
			Torrington.
A–570–802	731–TA–441	Industrial Nitrocellulose/China	Hercules.
A–570–803	731–TA–457–A	Axes and Adzes/China	Council Tool Co Inc.
			Warwood Tool.
			Woodings-Verona.
A–570–803	731–TA–457–B	Bars and Wedges/China	Council Tool Co Inc.
			Warwood Tool.
			Woodings-Verona.
A–570–803	731–TA–457–C	Hammers and Sledges/China	Council Tool Co Inc.
			Warwood Tool.
			Woodings-Verona.
A–570–803	731–TA–457–D	Picks and Mattocks/China	Council Tool Co Inc.
			Warwood Tool.
			Woodings-Verona.
A–570–804	731–TA–464	Sparklers/China	BJ Alan.
			Diamond Sparkler.
			Elkton Sparkler.
A–570–805	731–TA–466	Sodium Thiosulfate/China	Calabrian.
A–570–806	731–TA–472	Silicon Metal/China	American Alloys.
			Elkem Metals.
			Globe Metallurgical.
			International Union of Electronics, Electrical, Machine and Furniture Workers (Local 693).
			Oil, Chemical and Atomic Workers (Local 389).
			Silicon Metaltech.
			SiMETCO.
			SKW Alloys.
			Textile Processors, Service Trades, Health Care Professional and Technical Employees (Local 60).
			United Steelworkers of America (Locals 5171, 8538 and 12646).

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–570–808	731–TA–474	Chrome-Plated Lug Nuts/China	Consolidated International Automotive. Key Manufacturing. McGard.
A–570–811	731–TA–497	Tungsten Ore Concentrates/China	Curtis Tungsten. US Tungsten.
A–570–814	731–TA–520	Carbon Steel Butt-Weld Pipe Fittings/China	Hackney. Ladish. Mills Iron Works. Steel Forgings. Tube Forgings of America.
A–570–815	731–TA–538	Sulfanilic Acid/China	R–M Industries.
A–570–819	731–TA–567	Ferrosilicon/China	AIMCOR. Alabama Silicon. American Alloys. Globe Metallurgical. Oil, Chemical and Atomic Workers (Local 389). Silicon Metaltech. United Autoworkers of America (Local 523). United Steelworkers of America (Locals 2528, 3081, 5171 and 12646).
A–570–822	731–TA–624	Helical Spring Lock Washers/China	Illinois Tool Works.
A–570–825	731–TA–653	Sebacic Acid/China	Union Camp.
A–570–826	731–TA–663	Paper Clips/China	ACCO USA. Labelon/Noesting. TRICO Manufacturing.
A–570–827	731–TA–669	Cased Pencils/China	Blackfeet Indian Writing Instrument. Dixon-Ticonderoga. Empire Berol. Faber-Castell. General Pencil. JR Moon Pencil. Musgrave Pen & Pencil. Panda. Writing Instrument Manufacturers Association, Pencil Section.
A–570–828	731–TA–672	Silicomanganese/China	Elkem Metals. Oil, Chemical and Atomic Workers (Local 3–639).
A–570–830	731–TA–677	Coumarin/China	Rhone-Poulenc.
A–570–831	731–TA–683	Fresh Garlic/China	A&D Christopher Ranch. Belridge Packing. Colusa Produce. Denice & Filice Packing. El Camino Packing. The Garlic Company. Vessey and Company.
A–570–832	731–TA–696	Pure Magnesium/China	Dow Chemical. International Union of Operating Engineers (Local 564). Magnesium Corporation of America. United Steelworkers of America (Local 8319).
A–570–835	731–TA–703	Furfuryl Alcohol/China	QO Chemicals.
A–570–836	731–TA–718	Glycine/China	Chattem. Hampshire Chemical.
A–570–840	731–TA–724	Manganese Metal/China	Elkem Metals. Kerr-McGee.
A–570–842	731–TA–726	Polyvinyl Alcohol/China	Air Products and Chemicals.
A–570–844	731–TA–741	Melamine Institutional Dinnerware/China	Carlisle Food Service Products. Lexington United. Plastics Manufacturing.
A–570–846	731–TA–744	Brake Rotors/China	Brake Parts. Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers. Iroquois Tool Systems. Kelsey Hayes. Kinetic Parts Manufacturing. Overseas Auto Parts. Wagner Brake.
A–570–847	731–TA–749	Persulfates/China	FMC.
A–570–848	731–TA–752	Crawfish Tail Meat/China	A&S Crawfish.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Acadiana Fisherman's Co-Op.
			Arnaudville Seafood.
			Atchafalaya Crawfish Processors.
			Basin Crawfish Processors.
			Bayou Land Seafood.
			Becnel's Meat & Seafood.
			Bellard's Poultry & Crawfish.
			Bonanza Crawfish Farm.
			Cajun Seafood Distributors.
			Carl's Seafood.
			Catahoula Crawfish.
			Choplin SFD.
			CJ's Seafood & Purged Crawfish.
			Clearwater Crawfish.
			Crawfish Processors Alliance.
			Harvey's Seafood.
			Lawtell Crawfish Processors.
			Louisiana Premium Seafoods.
			Louisiana Seafood.
			LT West.
			Phillips Seafood.
			Prairie Cajun Wholesale Seafood Dist.
			Riceland Crawfish.
			Schexnider Crawfish.
			Seafood International Distributors.
			Sylvester's Processors.
			Teche Valley Seafood.
A–570–849	731–TA–753	Cut-to-Length Carbon Steel Plate/China	Acme Metals Inc.
			Bethlehem Steel.
			CitiSteel USA Inc.
			Geneva Steel.
			Gulf States Steel.
			Lukens Inc.
			National Steel.
			US Steel.
			United Steelworkers of America.
A–570–850	731–TA–757	Collated Roofing Nails/China	Illinois Tool Works.
			International Staple and Machines.
			Stanley-Bostitch.
A–570–851	731–TA–777	Preserved Mushrooms/China	LK Bowman.
			Modern Mushroom Farms.
			Monterey Mushrooms.
			Mount Laurel Canning.
			Mushroom Canning.
			Southwood Farms.
			Sunny Dell Foods.
			United Canning.
A–570–852	731–TA–814	Creatine Monohydrate/China	Pfanstiehl Laboratories.
A–570–853	731–TA–828	Aspirin/China	Rhodia.
A–570–855	731–TA–841	Non-Frozen Apple Juice Concentrate/China	Coloma Frozen Foods.
			Green Valley Apples of California.
			Knouse Foods Coop.
			Mason County Fruit Packers Coop.
			Tree Top.
A–570–856	731–TA–851	Synthetic Indigo/China	Buffalo Color.
			United Steelworkers of America.
A–570–860	731–TA–874	Steel Concrete Reinforcing Bar/China	AB Steel Mill Inc.
			AmeriSteel.
			Auburn Steel.
			Birmingham Steel.
			Border Steel.
			Cascade Steel Rolling Mills Inc.
			CMC Steel Group.
			Co-Steel Inc.
			Marion Steel.
			North Star Steel Co.
			Nucor Steel.
			Rebar Trade Action Coalition.
			Riverview Steel.
			Sheffield Steel.
			TAMCO.
			TXI-Chaparral Steel Co.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–570–862	731–TA–891	Foundry Coke/China	ABC Coke. Citizens Gas and Coke Utility. Erie Coke. Sloss Industries Corp. Tonawanda Coke. United Steelworkers of America.
A–570–863	731–TA–893	Honey/China	AH Meyer & Sons. Adee Honey Farms. Althoff Apiaries. American Beekeeping Federation. American Honey Producers Association. Anderson Apiaries. Arroyo Apiaries. Artesian Honey Producers. B Weaver Apiaries. Bailey Enterprises. Barkman Honey. Basler Honey Apiary. Beals Honey. Bears Paw Apiaries. Beaverhead Honey. Bee Biz. Bee Haven Honey. Belliston Brothers Apiaries. Big Sky Honey. Bill Rhodes Honey. Richard E Blake. Curt Bronnenbery. Brown's Honey Farms. Brumley's Bees. Buhmann Apiaries. Carys Honey Farms. Chaparrel Honey. Charles Apiaries. Mitchell Charles. Collins Honey. Conor Apiaries. Coy's Honey Farm. Dave Nelson Apiaries. Delta Bee. Eisele's Pollination & Honey. Ellingsoa's. Elliott Curtis & Sons. Charles L Emmons, Sr. Gause Honey. Gene Brandi Apiaries. Griffith Honey. Haff Apiaries. Hamilton Bee Farms. Hamilton Honey. Happie Bee. Harvest Honey. Harvey's Honey. Hiatt Honey. Hoffman Honey. Hollman Apiaries. Honey House. Honeybee Apiaries. Gary M Honl. Rand William Honl and Sydney Jo Honl. James R & Joann Smith Trust. Jaynes Bee Products. Johnston Honey Farms. Larry Johnston. Ke-An Honey. Kent Honeybees. Lake-Indianhead Honey Farms. Lamb's Honey Farm. Las Flores Apiaries. Mackrill Honey Farms & Sales. Raymond Marquette. Mason & Sons Honey.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			McCoy's Sunny South Apiaries. Merrimack Valley Apiaries & Evergreen Honey. Met 2 Honey Farm. Missouri River Honey. Mitchell Brothers Honey. Monda Honey Farm. Montana Dakota Honey. Northern Bloom Honey. Noye's Apiaries. Oakes Honey. Oakley Honey Farms. Old Mill Apiaries. Opp Honey. Oro Dulce. Peterson's ''Naturally Sweet'' Honey. Potoczak Bee Farms. Price Apiaries. Pure Sweet Honey Farms. Robertson Pollination Service. Robson Honey. William Robson. Rosedale Apiaries. Ryan Apiaries. Schmidt Honey Farms. Simpson Apiaries. Sioux Honey Association. Smoot Honey. Solby Honey. Stahlman Apiaries. Steve E Parks Apiaries. Stroope Bee & Honey. T&D Honey Bee. Talbott's Honey. Terry Apiaries. Thompson Apiaries. Triple A Farm. Tropical Blossom Honey. Tubbs Apiaries. Venable Wholesale. Walter L Wilson Buzz 76 Apiaries. Wiebersiek Honey Farms. Wilmer Farms. Brent J Woodworth. Wooten's Golden Queens. Yaddof Apiaries.
A–570–864	731–TA–895	Pure Magnesium (Granular)/China	Concerned Employees of Northwest Alloys. Magnesium Corporation of America. United Steelworkers of America. United Steelworkers of America (Local 8319).
A–570–865	731–TA–899	Hot-Rolled Steel Products/China	Bethlehem Steel. Gallatin Steel. Independent Steelworkers. IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
A–570–866	731–TA–921	Folding Gift Boxes/China	Field Container. Harvard Folding Box. Sterling Packaging. Superior Packaging.
A–570–867	731–TA–922	Automotive Replacement Glass Windshields/China.	PPG Industries. Safelite Glass. Viracon/Curvlite Inc. Visteon Corporation.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–570–868	731–TA–932	Folding Metal Tables and Chairs/China	Krueger International. McCourt Manufacturing. Meco. Virco Manufacturing.
A–570–873	731–TA–986	Ferrovanadium/China	Bear Metallurgical Co. Shieldalloy Metallurgical Corp.
A–570–875	731–TA–990	Non-Malleable Cast Iron Pipe Fittings/China	Anvil International Inc. Buck Co Inc. Frazier & Frazier Industries. Ward Manufacturing Inc.
A–570–877	731–TA–1010	Lawn and Garden Steel Fence Posts/China	Steel City Corp.
A–570–878	731–TA–1013	Saccharin/China	PMC Specialties Group Inc.
A–570–879	731–TA–1014	Polyvinyl Alcohol/China	Celanese Ltd. E I du Pont de Nemours & Co.
A–570–880	731–TA–1020	Barium Carbonate/China	Chemical Products Corp.
A–570–881	731–TA–1021	Malleable Iron Pipe Fittings/China	Anvil International Inc. Buck Co Inc. Ward Manufacturing Inc.
A–570–882	731–TA–1022	Refined Brown Aluminum Oxide/China	C–E Minerals. Treibacher Schleifmittel North America Inc. Washington Mills Co Inc.
A–570–884	731–TA–1034	Certain Color Television Receivers/China	Five Rivers Electronic Innovations LLC. Industrial Division of the Communications Workers of America (IUECWA). International Brotherhood of Electrical Workers (IBEW).
A–570–886	731–TA–1043	Polyethylene Retail Carrier Bags/China	Aargus Plastics Inc. Advance Polybags Inc. Advance Polybags (Nevada) Inc. Advance Polybags (Northeast) Inc. Alpha Industries Inc. Alpine Plastics Inc. Ampac Packaging LLC. API Enterprises Inc. Command Packaging. Continental Poly Bags Inc. Durabag Co Inc. Europackaging LLC. Genpak LLC (formerly Continental Superbag LLC). Genpak LLC (formerly Strout Plastics). Hilex Poly Co LLC. Inteplast Group Ltd. PCL Packaging Inc. Poly-Pak Industries Inc. Roplast Industries Inc. Superbag Corp. Unistar Plastics LLC. Vanguard Plastics Inc. VS Plastics LLC.
A–570–887	731–TA–1046	Tetrahydrofurfuryl Alcohol/China	Penn Specialty Chemicals Inc.
A–570–888	731–TA–1047	Ironing Tables and Certain Parts Thereof/China.	Home Products International Inc.
A–570–890	731–TA–1058	Wooden Bedroom Furniture/China	American Drew. American of Martinsville. Bassett Furniture Industries Inc. Bebe Furniture. Carolina Furniture Works Inc. Carpenters Industrial Union Local 2093. Century Furniture Industries. Country Craft Furniture Inc. Craftique. Crawford Furniture Mfg Corp. EJ Victor Inc. Forest Designs. Harden Furniture Inc. Hart Furniture. Higdon Furniture Co. IUE Industrial Division of CWA Local 82472. Johnston Tombigbee Furniture Mfg Co. Kincaid Furniture Co Inc. L & J G Stickley Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Lea Industries. Michels & Co. MJ Wood Products Inc. Mobel Inc. Modern Furniture Manufacturers Inc. Moosehead Mfg Co. Oakwood Interiors. O'Sullivan Industries Inc. Pennsylvania House Inc. Perdues Inc. Sandberg Furniture Mfg Co Inc. Stanley Furniture Co Inc. Statton Furniture Mfg Assoc. T Copeland & Sons. Teamsters, Chauffeurs, Warehousemen and Helpers Local 991. Tom Seely Furniture. UBC Southern Council of Industrial Workers Local Union 2305. United Steelworkers of America Local 193U. Vaughan Furniture Co Inc. Vaughan-Bassett Furniture Co Inc. Vermont Tubbs. Webb Furniture Enterprises Inc.
A–570–891	731–TA–1059	Hand Trucks and Certain Parts Thereof/China	B&P Manufacturing. Gleason Industrial Products Inc. Harper Trucks Inc. Magline Inc. Precision Products Inc. Wesco Industrial Products Inc.
A–570–892	731–TA–1060	Carbazole Violet Pigment 23/China	Allegheny Color Corp. Barker Fine Color Inc. Clariant Corp. Nation Ford Chemical Co. Sun Chemical Co.
A–570–894	731–TA–1070	Certain Tissue Paper Products/China	American Crepe Corp. Cindus Corp. Eagle Tissue LLC. Flower City Tissue Mills Co and Subsidiary. Garlock Printing & Converting Corp. Green Mtn Specialties Inc. Hallmark Cards Inc. Pacon Corp. Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL–CIO (''PACE''). Paper Service LTD. Putney Paper. Seaman Paper Co of MA Inc.
A–570–895	731–TA–1069	Certain Crepe Paper Products/China	American Crepe Corp. Cindus Corp. Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL–CIO (''PACE''). Seaman Paper Co of MA Inc.
A–570–896	731–TA–1071	Alloy Magnesium/China	Garfield Alloys Inc. Glass, Molders, Pottery, Plastics & Allied Workers International Local 374. Halaco Engineering MagReTech Inc. United Steelworkers of America Local 8319. US Magnesium LLC.
A–570–899	731–TA–1091	Artists' Canvas/China	Duro Art Industries. ICG/Holliston Mills Inc. Signature World Class Canvas LLC. Tara Materials Inc.
A–570–898	731–TA–1082	Chlorinated Isocyanurates/China	BioLab Inc. Clearon Corp. Occidental Chemical Corp.
A–570–901	731–TA–1095	Certain Lined Paper School Supplies/China	Fay Paper Products Inc. MeadWestvaco Consumer & Office Products. Norcom Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Pacon Corp.
			Roaring Spring Blank Book Co.
			Top Flight Inc.
			United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (USW).
A–570–904	731–TA–1103	Certain Activated Carbon/China	Calgon Carbon Corp.
			Norit Americas Inc.
A–570–905	731–TA–1104	Certain Polyester Staple Fiber/China	DAK Americas LLC.
			Formed Fiber Techmologies LLC.
			Nan Ya Plastics Corp America.
			Palmetto Synthetics LLC.
			United Synthetics Inc (USI).
			Wellman Inc.
A–570–908	731–TA–1110	Soium Hexametaphosphate (SHMP)/China	ICL Performance Products LP.
			Innophos Inc.
A–580–008	731–TA–134	Color Television Receivers/Korea	Committee to Preserve American Color Television.
			Independent Radionic Workers of America.
			Industrial Union Department, AFL–CIO.
			International Brotherhood of Electrical Workers.
			International Union of Electrical, Radio and Machine Workers.
A–580–507	731–TA–279	Malleable Cast Iron Pipe Fittings/Korea	Grinnell.
			Stanley G Flagg.
			Stockham Valves & Fittings.
			U-Brand.
			Ward Manufacturing.
A–580–601	731–TA–304	Top-of-the-Stove Stainless Steel Cooking Ware/Korea.	Farberware.
			egal Ware.
			Revere Copper & Brass.
			WearEver/Proctor Silex.
A–580–603	731–TA–315	Brass Sheet and Strip/Korea	Allied Industrial Workers of America.
			American Brass.
			Bridgeport Brass.
			Chase Brass & Copper.
			Hussey Copper.
			International Association of Machinists & Aerospace Workers.
			Mechanics Educational Society of America (Local 56).
			The Miller Company.
			Olin.
			Revere Copper Products.
			United Steelworkers of America.
A–580–605	731–TA–369	Color Picture Tubes/Korea	Industrial Union Department, AFL–CIO.
			International Association of Machinists & Aerospace Workers.
			International Brotherhood of Electrical Workers.
			International Union of Electronic, Electrical, Technical, Salaried and Machine Workers.
			Philips Electronic Components Group.
			United Steelworkers of America.
			Zenith Electronics.
A–580–803	731–TA–427	Small Business Telephone Systems/Korea	American Telephone & Telegraph.
			Comdial.
			Eagle Telephonic.
A–580–805	731–TA–442	Industrial Nitrocellulose/Korea	Hercules.
A–580–807	731–TA–459	Polyethylene Terephthalate Film/Korea	E I du Pont de Nemours.
			Hoechst Celanese.
			ICI Americas.
A–580–809	731–TA–533	Circular Welded Nonalloy Steel Pipe/Korea	Allied Tube & Conduit.
			American Tube.
			Bull Moose Tube.
			Century Tube.
			CSI Tubular Products.
			Cyclops.
			Laclede Steel.
			LTV Tubular Products.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Maruichi American. Sharon Tube. USX. Western Tube & Conduit. Wheatland Tube.
A–580–810	731–TA–540	Welded ASTM A–312 Stainless Steel Pipe/ Korea.	Avesta Sandvik Tube. Bristol Metals. Crucible Materials. Damascus Tubular Products. United Steelworkers of America.
A–580–811	731–TA–546	Carbon Steel Wire Rope/Korea	Bridon American. Macwhyte. Paulsen Wire Rope. The Rochester Corporation. United Automobile, Aerospace and Agricultural Implement Workers (Local 960). Williamsport. Wire-rope Works. Wire Rope Corporation of America.
A–580–812	731–TA–556	DRAMs of 1 Megabit and Above/Korea	Micron Technology. NEC Electronics. Texas Instruments.
A–580–813	731–TA–563	Stainless Steel Butt-Weld Pipe Fittings/Korea	Flo-Mac Inc. Gerlin. Markovitz Enterprises. Shaw Alloy Piping Products. Taylor Forge Stainless.
A–580–815	731–TA–607	Cold-Rolled Carbon Steel Flat Products/Korea	Armco Steel. Bethlehem Steel. California Steel Industries. Gulf States Steel. Inland Steel Industries. LTV Steel. National Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel.
A–580–816	731–TA–618	Corrosion-Resistant Carbon Steel Flat Products/Korea.	Armco Steel. Bethlehem Steel. California Steel Industries. Geneva Steel. Gulf States Steel. Inland Steel Industries. LTV Steel. Lukens Steel. National Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel.
A–580–825	731–TA–715	Oil Country Tubular Goods/Korea	Bellville Tube. IPSCO. Koppel Steel. Lone Star Steel. Maverick Tube. Newport Steel. North Star Steel. US Steel. USS/Kobe.
A–580–829	731–TA–772	Stainless Steel Wire Rod/Korea	AL Tech Specialty Steel. Carpenter Technology.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–580–831	731–TA–791	Stainless Steel Plate in Coils/Korea	Republic Engineered Steels. Talley Metals Technology. United Steelworkers of America. Allegheny Ludlum. Armco Steel. J&L Specialty Steel. Lukens Steel. North American Stainless.
A–580–834	731–TA–801	Stainless Steel Sheet and Strip/Korea	United Steelworkers of America. Allegheny Ludlum. Armco Steel. Bethlehem Steel. Butler Armco Independent Union. Carpenter Technology Corp. J&L Specialty Steel. North American Stainless. United Steelworkers of America. Zanesville Armco Independent Organization.
A–580–836	731–TA–821	Cut-to-Length Carbon Steel Plate/Korea	Bethlehem Steel. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. IPSCO Steel. National Steel. Tuscaloosa Steel. US Steel. United Steelworkers of America.
A–580–839	731–TA–825	Polyester Staple Fiber/Korea	Arteva Specialties Sarl. E I du Pont de Nemours. Intercontinental Polymers. Wellman.
A–580–841	731–TA–854	Structural Steel Beams/Korea	Northwestern Steel and Wire. Nucor. Nucor-Yamato Steel. TXI-Chaparral Steel. United Steelworkers of America.
A–580–844	731–TA–877	Steel Concrete Reinforcing Bar/Korea	AB Steel Mill Inc. AmeriSteel. Auburn Steel. Birmingham Steel. Border Steel. Cascade Steel Rolling Mills Inc. CMC Steel Group. Co-Steel Inc. Marion Steel. North Star Steel Co. Nucor Steel. Rebar Trade Action Coalition. Riverview Steel. Sheffield Steel. TAMCO. TXI-Chaparral Steel Co.
A–580–846	731–TA–889	Stainless Steel Angle/Korea	Slater Steels. United Steelworkers of America.
A–580–847	731–TA–916	Stainless Steel Bar/Korea	Carpenter Technology. Crucible Specialty Metals. Electralloy. Empire Specialty Steel. Republic Technologies International. Slater Steels. United Steelworkers of America.
A–580–850	731–TA–1017	Polyvinyl Alcohol/Korea	Celanese Ltd. E I du Pont de Nemours & Co.
A–580–852	731–TA–1026	Prestressed Concrete Steel Wire Strand/ Korea.	American Spring Wire Corp. Insteel Wire Products Co. Sivaco Georgia LLC. Strand Tech Martin Inc. Sumiden Wire Products Corp.
A–583–008	731–TA–132	Small Diameter Carbon Steel Pipe and Tube/ Tawian.	Allied Tube & Conduit. American Tube. Bull Moose Tube. Copperweld Tubing.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			J&L Steel. Kaiser Steel. Merchant Metals. Pittsburgh Tube. Southwestern Pipe. Western Tube & Conduit.
A–583–009	731–TA–135	Color Television Receivers/Taiwan	Committee to Preserve American Color Television. Independent Radionic Workers of America. Industrial Union Department, AFL–CIO. International Brotherhood of Electrical Workers. International Union of Electrical, Radio and Machine Workers.
A–583–080	AA1921–197	Carbon Steel Plate/Taiwan	No Petition (self-initiated by Treasury); Commerce service list identifies: Bethlehem Steel. China Steel. US Steel.
A–583–505	731–TA–277	Oil Country Tubular Goods/Taiwan	CF&I Steel. Copperweld Tubing. Cyclops. KPC. Lone Star Steel. LTV Steel. Maverick Tube. Quanex. US Steel.
A–583–507	731–TA–280	Malleable Cast Iron Pipe Fittings/Taiwan	Grinnell. Stanley G Flagg. Stockham Valves & Fittings. U-Brand. Ward Manufacturing.
A–583–508	731–TA–299	Porcelain-on-Steel Cooking Ware/Taiwan	General Housewares.
A–583–603	731–TA–305	Top-of-the-Stove Stainless Steel Cooking Ware/Taiwan.	Farberware. Regal Ware. Revere Copper & Brass. WearEver/Proctor Silex.
A–583–605	731–TA–310	Carbon Steel Butt-Weld Pipe Fittings/Taiwan	Ladish. Mills Iron Works. Steel Forgings. Tube Forgings of America. Weldbend.
A–583–803	731–TA–410	Light-Walled Rectangular Tube/Taiwan	Bull Moose Tube. Hannibal Industries. Harris Tube. Maruichi American. Searing Industries. Southwestern Pipe. Western Tube & Conduit.
A–583–806	731–TA–428	Small Business Telephone Systems/Taiwan	American Telephone & Telegraph. Comdial. Eagle Telephonic.
A–583–810	731–TA–475	Chrome-Plated Lug Nuts/Taiwan	Consolidated International Automotive. Key Manufacturing. McGard.
A–583–814	731–TA–536	Circular Welded Nonalloy Steel Pipe/Taiwan	Allied Tube & Conduit. American Tube. Bull Moose Tube. Century Tube. CSI Tubular Products. Cyclops. Laclede Steel. LTV Tubular Products. Maruichi American. Sharon Tube. USX. Western Tube & Conduit. Wheatland Tube.
A–583–815	731–TA–541	Welded ASTM A–312 Stainless Steel Pipe/Taiwan.	Avesta Sandvik Tube. Bristol Metals. Crucible Materials.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–583–816	731–TA–564	Stainless Steel Butt-Weld Pipe Fittings/Taiwan	Damascus Tubular Products. United Steelworkers of America. Flo-Mac Inc. Gerlin. Markovitz Enterprises. Shaw Alloy Piping Products. Taylor Forge Stainless.
A–583–820	731–TA–625	Helical Spring Lock Washers/Taiwan	Illinois Tool Works.
A–583–821	731–TA–640	Forged Stainless Steel Flanges/Taiwan	Gerlin. Ideal Forging. Maass Flange. Markovitz Enterprises.
A–583–824	731–TA–729	Polyvinyl Alcohol/Taiwan	Air Products and Chemicals.
A–583–825	731–TA–743	Melamine Institutional Dinnerware/Taiwan	Carlisle Food Service Products. Lexington United. Plastics Manufacturing.
A–583–826	731–TA–759	Collated Roofing Nails/Taiwan	Illinois Tool Works. International Staple and Machines. Stanley-Bostitch.
A–583–827	731–TA–762	SRAMs/Taiwan	Micron Technology.
A–583–828	731–TA–775	Stainless Steel Wire Rod/Taiwan	AL Tech Specialty Steel. Carpenter Technology. Republic Engineered Steels. Talley Metals Technology. United Steelworkers of America.
A–583–830	731–TA–793	Stainless Steel Plate in Coils/Taiwan	Allegheny Ludlum. Armco Steel. J&L Specialty Steel. Lukens Steel. North American Stainless. United Steelworkers of America.
A–583–831	731–TA–803	Stainless Steel Sheet and Strip/Taiwan	Allegheny Ludlum. Armco Steel. Bethlehem Steel. Butler Armco Independent Union. Carpenter Technology Corp. J&L Specialty Steel. North American Stainless. United Steelworkers of America. Zanesville Armco Independent Organization.
A–583–833	731–TA–826	Polyester Staple Fiber/Taiwan	Arteva Specialties Sarl. Intercontinental Polymers. Wellman.
A–583–835	731–TA–906	Hot-Rolled Steel Products/Taiwan	Bethlehem Steel. Gallatin Steel. Independent Steelworkers. IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
A–583–837	731–TA–934	Polyethylene Terephthalate Film, Sheet and Strip (PET Film)/Taiwan.	DuPont Teijin Films. Mitsubishi Polyester Film LLC. SKC America Inc. Toray Plastics (America).
A–588–005	731–TA–48	High Power Microwave Amplifiers/Japan	Aydin. MCL.
A–588–015	AA1921–66	Television Receivers/Japan	AGIV (USA). Casio Computer. CBM America. Citizen Watch. Funai Electric. Hitachi. Industrial Union Department. JC Penny. Matsushita.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Mitsubishi Electric. Montgomery Ward. NEC. Orion Electric. PT Imports. Philips Electronics. Philips Magnavox. Sanyo. Sharp. Toshiba. Toshiba America Consumer Products. Victor Company of Japan. Zenith Electronics.
A–588–028	AA1921–111	Roller Chain/Japan	Acme Chain Division, North American Rockwell. American Chain Association. Atlas Chain & Precision Products. Diamond Chain. Link-Belt Chain Division, FMC. Morse Chain Division, Borg Warner. Rex Chainbelt.
A–588–029	AA1921–85	Fish Netting of Man-Made Fiber/Japan	Jovanovich Supply. LFSI. Trans-Pacific Trading.
A–588–038	AA1921–98	Bicycle Speedometers/Japan	Avocet. Cat Eye. Diversified Products. NS International. Sanyo Electric. Stewart-Warner.
A–588–041	AA1921–115	Synthetic Methionine/Japan	Monsanto.
A–588–045	AA1921–124	Steel Wire Rope/Japan	AMSTED Industries.
A–588–046	AA1921–129	Polychloroprene Rubber/Japan	E I du Pont de Nemours.
A–588–054	AA1921–143	Tapered Roller Bearings 4 Inches and Under/Japan.	No companies identified as petitioners at the Commission; Commerce service list identifies: American Honda Motor. Federal Mogul. Ford Motor. General Motors. Honda. Hoover-NSK Bearing. Isuzu. Itocho. ITOCHU International. Kanematsu-Goshu USA. Kawasaki Heavy Duty Industries. Komatsu America. Koyo Seiko. Kubota Tractor. Mitsubishi. Motorambar. Nachi America. Nachi Western. Nachi-Fujikoshi. Nippon Seiko. Nissan Motor. Nissan Motor USA. NSK. NTN. Subaru of America. Sumitomo. Suzuki Motor. Timken. Toyota Motor Sales. Yamaha Motors.
A–588–055	AA1921–154	Acrylic Sheet/Japan	Polycast Technology.
A–588–056	AA1921–162	Melamine/Japan	Melamine Chemical.
A–588–068	AA1921–188	Prestressed Concrete Steel Wire Strand/Japan.	American Spring Wire. Armco Steel. Bethlehem Steel. CF&I Steel.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Florida Wire & Cable.
A–588–405	731–TA–207	Cellular Mobile Telephones/Japan	EF Johnson.
			Motorola.
A–588–602	731–TA–309	Carbon Steel Butt-Weld Pipe Fittings/Japan	Ladish.
			Mills Iron Works.
			Steel Forgings.
			Tube Forgings of America.
			Weldbend.
A–588–604	731–TA–343	Tapered Roller Bearings Over 4 Inches/Japan	L&S Bearing.
			Timken.
			Torrington.
A–588–605	731–TA–347	Malleable Cast Iron Pipe Fittings/Japan	Grinnell.
			Stanley G Flagg.
			Stockham Valves & Fittings.
			U-Brand.
			Ward Manufacturing.
A–588–609	731–TA–368	Color Picture Tubes/Japan	Industrial Union Department, AFL–CIO.
			International Association of Machinists & Aerospace Workers.
			International Brotherhood of Electrical Workers.
			International Union of Electronic, Electrical, Technical, Salaried and Machine Workers.
			Philips Electronic Components Group.
			United Steelworkers of America.
			Zenith Electronics.
A–588–702	731–TA–376	Stainless Steel Butt-Weld Pipe Fittings/Japan	Flo-Mac Inc.
			Flowline.
			Shaw Alloy Piping Products.
			Taylor Forge Stainless.
A–588–703	731–TA–377	Internal Combustion Industrial Forklift Trucks/Japan.	Ad-Hoc Group of Workers from Hyster's Berea, Kentucky and Sulligent, Alabama Facilities.
			Allied Industrial Workers of America.
			Hyster.
			Independent Lift Truck Builders Union.
			International Association of Machinists & Aerospace Workers.
			United Shop & Service Employees.
A–588–704	731–TA–379	Brass Sheet and Strip/Japan	Allied Industrial Workers of America.
			American Brass.
			Bridgeport Brass.
			Chase Brass & Copper.
			Hussey Copper.
			International Association of Machinists & Aerospace Workers.
			Mechanics Educational Society of America (Local 56).
			The Miller Company.
			North Coast Brass & Copper.
			Olin.
			Pegg Metals.
			Revere Copper Products.
			United Steelworkers of America.
A–588–706	731–TA–384	Nitrile Rubber/Japan	Uniroyal Chemical.
A–588–707	731–TA–386	Granular Polytetrafluoroethylene/Japan	E I du Pont de Nemours.
			ICI Americas.
A–588–802	731–TA–389	3.5″ Microdisks/Japan	Verbatim.
A–588–804	731–TA–394–A	Ball Bearings/Japan	Barden Corp.
			Emerson Power Transmission.
			Kubar Bearings.
			McGill Manufacturing Co.
			MPB.
			Rexnord Inc.
			Rollway Bearings.
			Torrington.
A–588–804	731–TA–394–B	Cylindrical Roller Bearings/Japan	Barden Corp.
			Emerson Power Transmission.
			Kubar Bearings.
			MPB.
			Rollway Bearings.
			Torrington.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–588–804	731–TA–394–C	Spherical Plain Bearings/Japan	Barden Corp. Emerson Power Transmission. Kubar Bearings. Rollway Bearings. Torrington.
A–588–806	731–TA–408	Electrolytic Manganese Dioxide/Japan	Chemetals. Kerr-McGee. Rayovac.
A–588–807	731–TA–414	Industrial Belts/Japan	The Gates Rubber Company. The Goodyear Tire and Rubber Company.
A–588–809	731–TA–426	Small Business Telephone Systems/Japan	American Telephone & Telegraph. Comdial. Eagle Telephonic.
A–588–810	731–TA–429	Mechanical Transfer Presses/Japan	Allied Products. United Autoworkers of America. United Steelworkers of America.
A–588–811	731–TA–432	Drafting Machines/Japan	Vemco.
A–588–812	731–TA–440	Industrial Nitrocellulose/Japan	Hercules.
A–588–815	731–TA–461	Gray Portland Cement and Clinker/Japan	Calaveras Cement. Hanson Permanente Cement. Independent Workers of North America (Locals 49, 52, 89, 192 and 471). International Union of Operating Engineers (Local 12). National Cement Co Inc. National Cement Company of California. Southdown.
A–588–817	731–TA–469	Electroluminescent Flat-Panel Displays/Japan	The Cherry Corporation. Electro Plasma. Magnascreen. OIS Optical Imaging Systems. Photonics Technology. Planar Systems. Plasmaco.
A–588–823	731–TA–571	Professional Electric Cutting Tools/Japan	Black & Decker.
A–588–826	731–TA–617	Corrosion-Resistant Carbon Steel Flat Products/Japan.	Bethlehem Steel. California Steel Industries. Geneva Steel. Gulf States Steel. Lukens Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel.
A–588–831	731–TA–660	Grain-Oriented Silicon Electrical Steel/Japan	Allegheny Ludlum. Armco Steel. United Steelworkers of America.
A–588–833	731–TA–681	Stainless Steel Bar/Japan	AL Tech Specialty Steel. Carpenter Technology. Crucible Specialty Metals. Electralloy. Republic Engineered Steels. Slater Steels. Talley Metals Technology. United Steelworkers of America.
A–588–835	731–TA–714	Oil Country Tubular Goods/Japan	IPSCO. Koppel Steel. Lone Star Steel Co. Maverick Tube. Newport Steel. North Star Steel. US Steel.
A–588–836	731–TA–727	Polyvinyl Alcohol/Japan	Air Products and Chemicals.
A–588–837	731–TA–737	Large Newspaper Printing Presses/Japan	Rockwell Graphics Systems.
A–588–838	731–TA–739	Clad Steel Plate/Japan	Lukens Steel.
A–588–839	731–TA–740	Sodium Azide/Japan	American Azide.
A–588–840	731–TA–748	Gas Turbo-Compressor Systems/Japan	Demag Delaval.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Dresser-Rand. United Steelworkers of America.
A–588–841	731–TA–750	Vector Supercomputers/Japan	Cray Research.
A–588–843	731–TA–771	Stainless Steel Wire Rod/Japan	AL Tech Specialty Steel. Carpenter Technology. Republic Engineered Steels. Talley Metals Technology. United Steelworkers of America.
A–588–845	731–TA–800	Stainless Steel Sheet and Strip/Japan	Allegheny Ludlum. Armco Steel. Bethlehem Steel. Butler Armco Independent Union. Carpenter Technology Corp. J&L Specialty Steel. North American Stainless. United Steelworkers of America. Zanesville Armco Independent Organization.
A–588–846	731–TA–807	Hot-Rolled Carbon Steel Flat Products/Japan	Acme Steel. Bethlehem Steel. California Steel Industries. Gallatin Steel. Geneva Steel. Gulf States Steel. Independent Steelworkers. IPSCO. Ispat/Inland. LTV Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
A–588–847	731–TA–820	Cut-to-Length Carbon Steel Plate/Japan	Bethlehem Steel. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. IPSCO Steel. Tuscaloosa Steel. US Steel. United Steelworkers of America.
A–588–850	731–TA–847	Large-Diameter Carbon Steel Seamless Pipe/ Japan.	North Star Steel. Timken. US Steel. United Steelworkers of America. USS/Kobe.
A–588–851	731–TA–847	Small-Diameter Carbon Steel Seamless Pipe/ Japan.	Koppel Steel. North Star Steel. Sharon Tube. Timken. US Steel. United Steelworkers of America. USS/Kobe. Vision Metals' Gulf States Tube.
A–588–852	731–TA–853	Structural Steel Beams/Japan	Northwestern Steel and Wire. Nucor. Nucor-Yamato Steel. TXI-Chaparral Steel. United Steelworkers of America.
A–588–854	731–TA–860	Tin-Mill Products/Japan	Independent Steelworkers. United Steelworkers of America. Weirton Steel.
A–588–856	731–TA–888	Stainless Steel Angle/Japan	Slater Steels. United Steelworkers of America.
A–588–857	731–TA–919	Welded Large Diameter Line Pipe/Japan	American Cast Iron Pipe. Berg Steel Pipe. Bethlehem Steel. Napa Pipe/Oregon Steel Mills. Saw Pipes USA. Stupp.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			US Steel.
A–588–861	731–TA–1016	Polyvinyl Alcohol/Japan	Celenex Ltd. E I du Pont de Nemours & Co.
A–588–862	731–TA–1023	Certain Ceramic Station Post Insulators/Japan	Lapp Insulator Co LLC. Newell Porcelain Co Inc. Victor Insulators Inc.
A–588–866	731–TA–1090	Superalloy Degassed Chromium/Japan	Eramet Marietta Inc.
A–602–803	731–TA–612	Corrosion-Resistant Carbon Steel Flat Products/Australia.	Armco Steel. Bethlehem Steel. California Steel Industries. Geneva Steel. Gulf States Steel. Inland Steel Industries. LTV Steel. Lukens Steel. National Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel.
A–791–805	731–TA–792	Stainless Steel Plate in Coils/South Africa	Allegheny Ludlum. Armco Steel. J&L Specialty Steel. Lukens Steel. North American Stainless. United Steelworkers of America.
A–791–808	731–TA–850	Small-Diameter Carbon Steel Seamless Pipe/South Africa.	Koppel Steel. North Star Steel. Sharon Tube. Timken. US Steel. United Steelworkers of America. USS/Kobe. Vision Metals' Gulf States Tube.
A–791–809	731–TA–905	Hot-Rolled Steel Products/South Africa	Bethlehem Steel. Gallatin Steel. Independent Steelworkers. IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
A–791–815	731–TA–987	Ferrovanadium/South Africa	Bear Metallurgical Co. Shieldalloy Metallurgical Corp.
A–821–801	731–TA–340E	Solid Urea/Russia	Agrico Chemical. American Cyanamid. CF Industries. First Mississippi. Mississippi Chemical. Terra International. WR Grace.
A–821–802	731–TA–539–C	Uranium/Russia	Ferret Exploration. First Holding. Geomex Minerals. IMC Fertilizer. Malapai Resources. Oil, Chemical and Atomic Workers. Pathfinder Mines. Power Resources. Rio Algom Mining. Solution Mining.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Total Minerals.
			Umetco Minerals.
			Uranium Resources.
A–821–804	731–TA–568	Ferrosilicon/Russia	AIMCOR.
			Alabama Silicon.
			American Alloys.
			Globe Metallurgical.
			Oil, Chemical and Atomic Workers (Local 389).
			Silicon Metaltech.
			United Autoworkers of America (Local 523).
			United Steelworkers of America (Locals 2528, 3081, 5171 and 12646).
A–821–805	731–TA–697	Pure Magnesium/Russia	Dow Chemical.
			International Union of Operating Engineers (Local 564).
			Magnesium Corporation of America.
			United Steelworkers of America (Local 8319).
A–821–807	731–TA–702	Ferrovanadium and Nitrided Vanadium/Russia	Shieldalloy Metallurgical.
A–821–809	731–TA–808	Hot-Rolled Carbon Steel Flat Products/Russia	Acme Steel.
			Bethlehem Steel.
			California Steel Industries.
			Gallatin Steel.
			Geneva Steel.
			Gulf States Steel.
			Independent Steelworkers.
			IPSCO.
			Ispat/Inland.
			LTV Steel.
			National Steel.
			Nucor.
			Rouge Steel Co.
			Steel Dynamics.
			US Steel.
			United Steelworkers of America.
			WCI Steel.
			Weirton Steel.
			Wheeling-Pittsburgh Steel Corp.
A–821–811	731–TA–856	Ammonium Nitrate/Russia	Agrium.
			Air Products and Chemicals.
			El Dorado Chemical.
			LaRoche.
			Mississippi Chemical.
			Nitram.
			Wil-Gro Fertilizer.
A–821–817	731–TA–991	Silicon Metal/Russia	Globe Metallurgical Inc.
			SIMCALA Inc.
A–821–819	731–TA–1072	Pure and Alloy Magnesium/Russia	Garfield Alloys Inc.
			Glass, Molders, Pottery, Plastics & Allied Workers International Local 374.
			Halaco Engineering.
			MagReTech Inc.
			United Steelworkers of America Local 8319.
			US Magnesium LLC.
A–822–801	731–TA–340B	Solid Urea/Belarus	Agrico Chemical.
			American Cyanamid.
			CF Industries.
			First Mississippi.
			Mississippi Chemical.
			Terra International.
			WR Grace.
A–822–804	731–TA–873	Steel Concrete Reinforcing Bar/Belarus	AB Steel Mill Inc.
			AmeriSteel.
			Auburn Steel.
			Birmingham Steel.
			Border Steel.
			Cascade Steel Rolling Mills Inc.
			CMC Steel Group.
			Co-Steel Inc.
			Marion Steel.
			North Star Steel Co.
			Nucor Steel.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Rebar Trade Action Coalition. Riverview Steel. Sheffield Steel. TAMCO. TXI-Chaparral Steel Co.
A–823–801	731–TA–340H	Solid Urea/Ukraine	Agrico Chemical. American Cyanamid. CF Industries. First Mississippi. Mississippi Chemical. Terra International. WR Grace.
A–823–802	731–TA–539–E	Uranium/Ukraine	Ferret Exploration. First Holding. Geomex Minerals. IMC Fertilizer. Malapai Resources. Oil, Chemical and Atomic Workers. Pathfinder Mines. Power Resources. Rio Algom Mining. Solution Mining. Total Minerals. Umetco Minerals. Uranium Resources.
A–823–804	731–TA–569	Ferrosilicon/Ukraine	AIMCOR. Alabama Silicon. American Alloys. Globe Metallurgical. Oil, Chemical and Atomic Workers (Local 389). Silicon Metaltech. United Autoworkers of America (Local 523). United Steelworkers of America (Locals 2528, 3081, 5171 and 12646).
A–823–805	731–TA–673	Silicomanganese/Ukraine	Elkem Metals. Oil, Chemical and Atomic Workers (Local 3–639).
A–823–809	731–TA–882	Steel Concrete Reinforcing Bar/Ukraine	AB Steel Mill Inc. AmeriSteel. Auburn Steel. Birmingham Steel. Border Steel. Cascade Steel Rolling Mills Inc. CMC Steel Group. Co-Steel Inc. Marion Steel. North Star Steel Co. Nucor Steel. Rebar Trade Action Coalition. Riverview Steel. Sheffield Steel. TAMCO. TXI-Chaparral Steel Co.
A–823–810	731–TA–894	Ammonium Nitrate/Ukraine	Agrium. Air Products and Chemicals. Committee for Fair Ammonium Nitrate Trade. El Dorado Chemical. LaRoche Industries. Mississippi Chemical. Nitram. Prodica.
A–823–811	731–TA–908	Hot-Rolled Steel Products/Ukraine	Bethlehem Steel. Gallatin Steel. Independent Steelworkers. IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–823–812	731–TA–962	Carbon and Certain Alloy Steel Wire Rod/ Ukraine.	United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp. AmeriSteel. Birmingham Steel. Cascade Steel Rolling Mills. Connecticut Steel Corp. Co-Steel Raritan. GS Industries. Keystone Consolidated Industries. North Star Steel Texas. Nucor Steel-Nebraska (a division of Nucor Corp). Republic Technologies International. Rocky Mountain Steel Mills.
A–831–801	731–TA–340A	Solid Urea/Armenia	Agrico Chemical. American Cyanamid. CF Industries. First Mississippi. Mississippi Chemical. Terra International. WR Grace.
A–834–806	731–TA–902	Hot-Rolled Steel Products/Kazakhstan	Bethlehem Steel. Gallatin Steel. Independent Steelworkers. IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dymanics. US Steel. United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
A–834–807	731–TA–930	Silicomanganese/Kazakhstan	Eramet Marietta. Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5–0639.
A–841–804	731–TA–879	Steel Concrete Reinforcing Bar/Moldova	AB Steel Mill Inc. AmeriSteel. Auburn Steel. Birmingham Steel. Border Steel. Cascade Steel Rolling Mills Inc. CMC Steel Group. Co-Steel Inc. Marion Steel. North Star Steel Co. Nucor Steel. Rebar Trade Action Coalition. Riverview Steel. Sheffield Steel. TAMCO. TXI-Chaparral Steel Co.
A–841–805	731–TA–959	Carbon and Certain Alloy Steel Wire Rod/ Moldova.	AmeriSteel. Birmingham Steel. Cascade Steel Rolling Mills. Connecticut Steel Corp. Co-Steel Raritan. GS Industries. Keystone Consolidated Industries. North Star Steel Texas. Nucor Steel-Nebraska (a division of Nucor Corp). Republic Technologies International. Rocky Mountain Steel Mills.
A–842–801	731–TA–340F	Solid Urea/Tajikistan	Agrico Chemical. American Cyanamid. CF Industries. First Mississippi.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Mississippi Chemical. Terra International. WR Grace.
A–843–801	731–TA–340G	Solid Urea/Turkmenistan	Agrico Chemical. American Cyanamid. CF Industries. First Mississippi. Mississippi Chemical. Terra International. WR Grace.
A–843–802	731–TA–539	Uranium/Kazakhstan	Ferret Exploration. First Holding. Geomex Minerals. IMC Fertilizer. Malapai Resources. Oil, Chemical and Atomic Workers. Pathfinder Mines. Power Resources. Rio Algom Mining. Solution Mining. Total Minerals. Umetco Minerals. Uranium Resources.
A–843–804	731–TA–566	Ferrosilicon/Kazakhstan	AIMCOR. Alabama Silicon. American Alloys. Globe Metallurgical. Oil, Chemical and Atomic Workers (Local 389). Silicon Metaltech. United Autoworkers of America (Local 523). United Steelworkers of America (Locals 2528, 3081, 5171 and 12646).
A–844–801	731–TA–340I	Solid Urea/Uzbekistan	Agrico Chemical. American Cyanamid. CF Industries. First Mississippi. Mississippi Chemical. Terra International. WR Grace.
A–844–802	731–TA–539–F	Uranium/Uzbekistan	Ferret Exploration. First Holding. Geomex Minerals. IMC Fertilizer. Malapai Resources. Oil, Chemical and Atomic Workers. Pathfinder Mines. Power Resources. Rio Algom Mining. Solution Mining. Total Minerals. Umetco Minerals. Uranium Resources.
A–851–802	731–TA–846	Small-Diameter Carbon Steel Seamless Pipe/ Czech Republic.	Koppel Steel. North Star Steel. Sharon Tube. Timken. US Steel. United Steelworkers of America. USS/Kobe. Vision Metals' Gulf States Tube.
C–122–404	701–TA–224	Live Swine/Canada	National Pork Producers Council. Wilson Foods.
C–122–805	701–TA–297	Steel Rails/Canada	Bethlehem Steel. CF&I Steel.
C–122–815	701–TA–309–A	Alloy Magnesium/Canada	Magnesium Corporation of America.
C–122–815	701–TA–309–B	Pure Magnesium/Canada	Magnesium Corporation of America.
C–122–839	701–TA–414	Softwood Lumber/Canada	71 Lumber Co. Almond Bros Lbr Co. Anthony Timberlands. Balfour Lbr Co. Ball Lumber.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Banks Lumber Company. Barge Forest Products Co. Beadles Lumber Co. Bearden Lumber. Bennett Lumber. Big Valley Band Mill. Bighorn Lumber Co Inc. Blue Mountain Lumber. Buddy Bean Lumber. Burgin Lumber Co Ltd. Burt Lumber Company. C&D Lumber Co. Ceda-Pine Veneer. Cersosimo Lumber Co Inc. Charles Ingram Lumber Co Inc. Charleston Heart Pine. Chesterfield Lumber. Chips. Chocorua Valley Lumber Co. Claude Howard Lumber. Clearwater Forest Industries. CLW Inc. CM Tucker Lumber Corp. Coalition for Fair Lumber Imports Executive Committee. Cody Lumber Co. Collins Pine Co. Collums Lumber. Columbus Lumber Co. Contoocook River Lumber. Conway Guiteau Lumber. Cornwright Lumber Co. Crown Pacific. Daniels Lumber Inc. Dean Lumber Co Inc. Deltic Timber Corporation. Devils Tower Forest Products. DiPrizio Pine Sales. Dorchester Lumber Co. DR Johnson Lumber. East Brainerd Lumber Co. East Coast Lumber Company. Eas-Tex Lumber. ECK Wood Products. Ellingson Lumber Co. Elliott Sawmilling. Empire Lumber Co. Evergreen Forest Products. Excalibur Shelving Systems Inc. Exley Lumber Co. FH Stoltze Land & Lumber Co. FL Turlington Lbr Co Inc. Fleming Lumber. Flippo Lumber. Floragen Forest Products. Frank Lumber Co. Franklin Timber Co. Fred Tebb & Sons. Fremont Sawmill. Frontier Resources. Garrison Brothers Lumber Co and Subsidiaries. Georgia Lumber. Gilman Building Products. Godfrey Lumber. Granite State Forest Prod Inc. Great Western Lumber Co. Greenville Molding Inc. Griffin Lumber Company. Guess Brothers Lumber. Gulf Lumber. Gulf States Paper.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Guy Bennett Lumber. Hampton Resources. Hancock Lumber. Hankins Inc. Hankins Lumber Co. Harrigan Lumber. Harwood Products. Haskell Lumber Inc. Hatfield Lumber. Hedstrom Lumber. Herrick Millwork Inc. HG Toler & Son Lumber Co Inc. HG Wood Industries LLC. Hogan & Storey Wood Prod. Hogan Lumber Co. Hood Industries. HS Hofler & Sons Lumber Co Inc. Hubbard Forest Ind Inc. HW Culp Lumber Co. Idaho Veneer Co. Industrial Wood Products. Intermountain Res LLC. International Paper. J Franklin Jones Lumber Co Inc. Jack Batte & Sons Inc. Jasper Lumber Company. JD Martin Lumber Co. JE Jones Lumber Co. Jerry G Williams & Sons. JH Knighton Lumber Co. Johnson Lumber Company. Jordan Lumber & Supply. Joseph Timber Co. JP Haynes Lbr Co Inc. JV Wells Inc. JW Jones Lumber. Keadle Lumber Enterprises. Keller Lumber. King Lumber Co. Konkolville Lumber. Langdale Forest Products. Laurel Lumber Company. Leavitt Lumber Co. Leesville Lumber Co. Limington Lumber Co. Longview Fibre Co. Lovell Lumber Co Inc. M Kendall Lumber Co. Manke Lumber Co. Marriner Lumber Co. Mason Lumber. MB Heath & Sons Lumber Co. MC Dixon Lumber Co Inc. Mebane Lumber Co Inc. Metcalf Lumber Co Inc. Millry Mill Co Inc. Moose Creek Lumber Co. Moose River Lumber. Morgan Lumber Co Inc. Mount Yonah Lumber Co. Nagel Lumber. New Kearsarge Corp. New South. Nicolet Hardwoods. Nieman Sawmills SD. Nieman Sawmills WY. North Florida. Northern Lights Timber & Lumber. Northern Neck Lumber Co. Ochoco Lumber Co. Olon Belcher Lumber Co. Owens and Hurst Lumber.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Packaging Corp of America. Page & Hill Forest Products. Paper, Allied-Industrial, Chemical and Energy Workers International Union. Parker Lumber. Pate Lumber Co Inc. PBS Lumber. Pedigo Lumber Co. Piedmont Hardwood Lumber Co. Pine River Lumber Co. Pinecrest Lumber Co. Pleasant River Lumber Co. Pleasant Western Lumber Inc. Plum Creek Timber. Pollard Lumber. Portac. Potlatch. Potomac Supply. Precision Lumber Inc. Pruitt Lumber Inc. R Leon Williams Lumber Co. RA Yancey Lumber. Rajala Timber Co. Ralph Hamel Forest Products. Randy D Miller Lumber. Rappahannock Lumber Co. Regulus Stud Mills Inc. Riley Creek Lumber. Roanoke Lumber Co. Robbins Lumber. Robertson Lumber. Roseburg Forest Products Co. Rough & Ready. RSG Forest Products. Rushmore Forest Products. RY Timber Inc. Sam Mabry Lumber Co. Scotch Lumber. SDS Lumber Co. Seacoast Mills Inc. Seago Lumber. Seattle-Snohomish. Seneca Sawmill. Shaver Wood Products. Shearer Lumber Products. Shuqualak Lumber. SI Storey Lumber. Sierra Forest Products. Sierra Pacific Industries. Sigfridson Wood Products. Silver City Lumber Inc. Somers Lbr & Mfg Inc. South & Jones. South Coast. Southern Forest Industries Inc. Southern Lumber. St Laurent Forest Products. Starfire Lumber Co. Steely Lumber Co Inc. Stimson Lumber. Summit Timber Co. Sundance Lumber. Superior Lumber. Swanson Superior Forest Products Inc. Swift Lumber. Tamarack Mill. Taylor Lumber & Treating Inc. Temple-Inland Forest Products. Thompson River Lumber. Three Rivers Timber. Thrift Brothers Lumber Co Inc. Timco Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Tolleson Lumber. Toney Lumber. TR Miller Mill Co. Tradewinds of Virginia Ltd. Travis Lumber Co. Tree Source Industries Inc. Tri-State Lumber. TTT Studs. United Brotherhood of Carpenters and Joiners. Viking Lumber Co. VP Kiser Lumber Co. Walton Lumber Co Inc. Warm Springs Forest Products. Westvaco Corp. Wilkins, Kaiser & Olsen Inc. WM Shepherd Lumber Co. WR Robinson Lumber Co Inc. Wrenn Brothers Inc. Wyoming Sawmills. Yakama Forest Products. Younce & Ralph Lumber Co Inc. Zip-O-Log Mills Inc.
C–122–841	701–TA–418	Carbon and Certain Alloy Steel Wire Rod/Canada.	AmeriSteel. Birmingham Steel. Cascade Steel Rolling Mills. Connecticut Steel Corp. Co-Steel Raritan. GS Industries. Keystone Consolidated Industries. North Star Steel Texas. Nucor Steel-Nebraska (a division of Nucor Corp). Republic Technologies International. Rocky Mountain Steel Mills.
C–122–848	701–TA–430B	Hard Red Spring Wheat/Canada	North Dakota Wheat Commission.
C–201–505	701–TA–265	Porcelain-on-Steel Cooking Ware/Mexico	General Housewares.
C–201–810	701–TA–325	Cut-to-Length Carbon Steel Plate/Mexico	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
C–307–804	303–TA–21	Gray Portland Cement and Clinker/Venezuela	Florida Crushed Stone. Southdown. Tarmac America.
C–307–808	303–TA–23	Ferrosilicon/Venezuela	AIMCOR. Alabama Silicon. American Alloys. Globe Metallurgical. Oil, Chemical and Atomic Workers (Local 389). Silicon Metaltech. United Autoworkers of America (Local 523). United Steelworkers of America (Locals 2528, 3081, 5171 and 12646).
C–333–401	701–TA–E	Cotton Shop Towels/Peru	No case at the Commission; Commerce service list identifies: Durafab. Kleen-Tex Industries. Lewis Eckert Robb. Milliken. Pavis & Harcourt.
C–351–037	104–TAA–21	Cotton Yarn/Brazil	American Yarn Spinners Association.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
C–351–504	701–TA–249	Heavy Iron Construction Castings/Brazil	Harriet & Henderson Yarns. LaFar Industries. Alhambra Foundry. Allegheny Foundry. Bingham & Taylor. Campbell Foundry. Charlotte Pipe & Foundry. Deeter Foundry. East Jordan Foundry. Le Baron Foundry. Municipal Castings. Neenah Foundry. Opelika Foundry. Pinkerton Foundry. Tyler Pipe. US Foundry & Manufacturing. Vulcan Foundry.
C–351–604	701–TA–269	Brass Sheet and Strip/Brazil	Allied Industrial Workers of America. American Brass. Bridgeport Brass. Chase Brass & Copper. Hussey Copper. International Association of Machinists & Aerospace Workers. Mechanics Educational Society of America (Local 56). The Miller Company. Olin. Revere Copper Products. United Steelworkers of America.
C–351–818	701–TA–320	Cut-to-Length Carbon Steel Plate/Brazil	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
C–351–829	701–TA–384	Hot-Rolled Carbon Steel Flat Products/Brazil	Acme Steel. Bethlehem Steel. California Steel Industries. Gallatin Steel. Geneva Steel. Gulf States Steel. Independent Steelworkers. IPSCO. Ispat/Inland. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
C–351–833	701–TA–417	Carbon and Certain Alloy Steel Wire Rod/ Brazil.	AmeriSteel. Birmingham Steel. Cascade Steel Rolling Mills. Connecticut Steel Corp. Co-Steel Raritan. GS Industries. Keystone Consolidated Industries. North Star Steel Texas. Nucor Steel-Nebraska (a division of Nucor Corp).

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Republic Technologies International.
			Rocky Mountain Steel Mills.
C–357–004	701–TA–A	Carbon Steel Wire Rod/Argentina	Atlantic Steel.
			Continental Steel.
			Georgetown Steel.
			North Star Steel.
			Raritan River Steel.
C–357–813	701–TA–402	Honey/Argentina	AH Meyer & Sons.
			Adee Honey Farms.
			Althoff Apiaries.
			American Beekeeping Federation.
			American Honey Producers Association.
			Anderson Apiaries.
			Arroyo Apiaries.
			Artesian Honey Producers.
			B Weaver Apiaries.
			Bailey Enterprises.
			Barkman Honey.
			Basler Honey Apiary.
			Beals Honey.
			Bears Paw Apiaries.
			Beaverhead Honey.
			Bee Biz.
			Bee Haven Honey.
			Belliston Brothers Apiaries.
			Big Sky Honey.
			Bill Rhodes Honey.
			Richard E Blake.
			Curt Bronnenbery.
			Brown's Honey Farms.
			Brumley's Bees.
			Buhmann Apiaries.
			Carys Honey Farms.
			Chaparrel Honey.
			Charles Apiaries.
			Mitchell Charles.
			Collins Honey.
			Conor Apiaries.
			Coy's Honey Farm.
			Dave Nelson Apiaries.
			Delta Bee.
			Eisele's Pollination & Honey.
			Ellingsoa's.
			Elliott Curtis & Sons.
			Charles L Emmons, Sr.
			Gause Honey.
			Gene Brandi Apiaries.
			Griffith Honey.
			Haff Apiaries.
			Hamilton Bee Farms.
			Hamilton Honey.
			Happie Bee.
			Harvest Honey.
			Harvey's Honey.
			Hiatt Honey.
			Hoffman Honey.
			Hollman Apiaries.
			Honey House.
			Honeybee Apiaries.
			Gary M Honl.
			Rand William Honl and Sydney Jo Honl.
			James R & Joann Smith Trust.
			Jaynes Bee Products.
			Johnston Honey Farms.
			Larry Johnston.
			Ke-An Honey.
			Kent Honeybees.
			Lake-Indianhead Honey Farms.
			Lamb's Honey Farm.
			Las Flores Apiaries.
			Mackrill Honey Farms & Sales.
			Raymond Marquette.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Mason & Sons Honey. McCoy's Sunny South Apiaries. Merrimack Valley Apiaries & Evergreen Honey. Met 2 Honey Farm. Missouri River Honey. Mitchell Brothers Honey. Monda Honey Farm. Montana Dakota Honey. Northern Bloom Honey. Noye's Apiaries. Oakes Honey. Oakley Honey Farms. Old Mill Apiaries. Opp Honey. Oro Dulce. Peterson's ''Naturally Sweet'' Honey. Potoczak Bee Farms. Price Apiaries. Pure Sweet Honey Farms. Robertson Pollination Service. Robson Honey. William Robson. Rosedale Apiaries. Ryan Apiaries. Schmidt Honey Farms. Simpson Apiaries. Sioux Honey Association. Smoot Honey. Solby Honey. Stahlman Apiaries. Steve E Parks Apiaries. Stroope Bee & Honey. T&D Honey Bee. Talbott's Honey. Terry Apiaries. Thompson Apiaries. Triple A Farm. Tropical Blossom Honey. Tubbs Apiaries. Venable Wholesale. Walter L Wilson Buzz 76 Apiaries. Wiebersiek Honey Farms. Wilmer Farms. Brent J Woodworth. Wooten's Golden Queens. Yaddof Apiaries.
C–357–815	701–TA–404	Hot-Rolled Steel Products/Argentina	Bethlehem Steel. Gallatin Steel. Independent Steelworkers. IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
C–401–401	701–TA–231	Cold-Rolled Carbon Steel Flat Products/Sweden.	Bethlehem Steel. Chaparral. US Steel.
C–401–804	701–TA–327	Cut-to-Length Carbon Steel Plate/Sweden	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
C–403–802	701–TA–302	Fresh and Chilled Atlantic Salmon/Norway	Heritage Salmon. The Coalition for Fair Atlantic Salmon Trade.
C–408–046	104–TAA–7	Sugar/EU	No petition at the Commission; Commerce service list identifies: AJ Yates. Alexander & Baldwin. American Farm Bureau Federation. American Sugar Cane League. American Sugarbeet Growers Association. Amstar Sugar. Florida Sugar Cane League. Florida Sugar Marketing and Terminal Association. H&R Brokerage. Hawaiian Agricultural Research Center. Leach Farms. Michigan Farm Bureau. Michigan Sugar. Rio Grande Valley Sugar Growers Association. Sugar Cane Growers Cooperative of Florida. Talisman Sugar. US Beet Sugar Association. United States Beet Sugar Association. United States Cane Sugar Refiners' Association.
C–412–815	701–TA–328	Cut-to-Length Carbon Steel Plate/United Kingdom.	Bethlehem Steel. California Steel Industries. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
C–412–821	701–TA–412	Low Enriched Uranium/United Kingdom	United States Enrichment Corp. USEC Inc.
C–421–601	701–TA–278	Fresh Cut Flowers/Netherlands	Burdette Coward. California Floral Council. Floral Trade Council. Florida Flower Association. Gold Coast Uanko Nursery. Hollandia Wholesale Florist. Manatee Fruit. Monterey Flower Farms. Topstar Nursery.
C–421–809	701–TA–411	Low Enriched Uranium/Netherlands	United States Enrichment Corp. USEC Inc.
C–423–806	701–TA–319	Cut-to-Length Carbon Steel Plate/Belgium	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
C–423–809	701–TA–376	Stainless Steel Plate in Coils/Belgium	US Steel. United Steelworkers of America. Allegheny Ludlum. Armco Steel. Lukens Steel. North American Stainless.
C–427–603	701–TA–270	Brass Sheet and Strip/France	United Steelworkers of America. Allied Industrial Workers of America. American Brass. Bridgeport Brass. Chase Brass & Copper. Hussey Copper. International Association of Machinists & Aerospace Workers. Mechanics Educational Society of America (Local 56). The Miller Company. Olin. Revere Copper Products.
C–427–805	701–TA–315	Hot-Rolled Lead and Bismuth Carbon Steel Products/France.	United Steelworkers of America. Bethlehem Steel. Inland Steel Industries. USS/Kobe Steel.
C–427–810	701–TA–348	Corrosion-Resistant Carbon Steel Flat Products/France.	Armco Steel. Bethlehem Steel. California Steel Industries. Geneva Steel. Gulf States Steel. Inland Steel Industries. LTV Steel. Lukens Steel. National Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel.
C–427–815	701–TA–380	Stainless Steel Sheet and Strip/France	Allegheny Ludlum. Armco Steel. Bethlehem Steel. Butler Armco Independent Union. Carpenter Technology Corp. North American Stainless. United Steelworkers of America. Zanesville Armco Independent Organization.
C–427–817	701–TA–387	Cut-to-Length Carbon Steel Plate/France	Bethlehem Steel. Geneva Steel. IPSCO Steel. National Steel. US Steel. United Steelworkers of America.
C–427–819	701–TA–409	Low Enriched Uranium/France	United States Enrichment Corp. USEC Inc.
C–428–817	701–TA–340	Cold-Rolled Carbon Steel Flat Products/Germany.	Armco Steel. Bethlehem Steel. California Steel Industries. Gulf States Steel. Inland Steel Industries. LTV Steel. National Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
C–428–817	701–TA–349	Corrosion-Resistant Carbon Steel Flat Products/Germany.	Weirton Steel. Armco Steel. Bethlehem Steel. California Steel Industries. Geneva Steel. Gulf States Steel. Inland Steel Industries. LTV Steel. Lukens Steel. National Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel.
C–428–817	701–TA–322	Cut-to-Length Carbon Steel Plate/Germany	Weirton Steel. Bethlehem Steel. California Steel Industries. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
C–428–829	701–TA–410	Low Enriched Uranium/Germany	United States Enrichment Corp. USEC Inc.
C–437–805	701–TA–426	Sulfanilic Acid/Hungary	Nation Ford Chemical.
C–469–004	701–TA–178	Stainless Steel Wire Rod/Spain	AL Tech Specialty Steel. Armco Steel. Carpenter Technology. Colt Industries. Cyclops. Guterl Special Steel. Joslyn Stainless Steels. Republic Steel.
C–469–804	701–TA–326	Cut-to-Length Carbon Steel Plate/Spain	Bethlehem Steel. California Steel Industries. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. Inland Steel Industries. Lukens Steel. National Steel. Nextech. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America.
C–475–812	701–TA–355	Grain-Oriented Silicon Electrical Steel/Italy	Allegheny Ludlum. Armco Steel. Butler Armco Independent Union. United Steelworkers of America. Zanesville Armco Independent Union.
C–475–815	701–TA–362	Seamless Pipe/Italy	Koppel Steel. Quanex. Timken. United States Steel.
C–475–817	701–TA–364	Oil Country Tubular Goods/Italy	IPSCO. Koppel Steel. Lone Star Steel. Maverick Tube. Newport Steel. North Star Steel.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			US Steel.
			USS/Kobe.
C–475–819	701–TA–365	Pasta/Italy	A Zerega's Sons.
			American Italian Pasta.
			Borden.
			D Merlino & Sons.
			Dakota Growers Pasta.
			Foulds.
			Gilster-Mary Lee.
			Gooch Foods.
			Hershey Foods.
			LaRinascente Macaroni Co.
			Pasta USA.
			Philadelphia Macaroni.
			ST Specialty Foods.
C–475–821	701–TA–373	Stainless Steel Wire Rod/Italy	AL Tech Specialty Steel.
			Carpenter Technology.
			Republic Engineered Steels.
			Talley Metals Technology.
			United Steelworkers of America.
C–475–823	701–TA–377	Stainless Steel Plate in Coils/Italy	Allegheny Ludlum.
			Armco Steel.
			J&L Specialty Steel.
			Lukens Steel.
			North American Stainless.
			United Steelworkers of America.
C–475–825	701–TA–381	Stainless Steel Sheet and Strip/Italy	Allegheny Ludlum.
			Armco Steel.
			Bethlehem Steel.
			Butler Armco Independent Union.
			Carpenter Technology Corp.
			J&L Specialty Steel.
			North American Stainless.
			United Steelworkers of America.
			Zanesville Armco Independent Organization.
C–475–827	701–TA–390	Cut-to-Length Carbon Steel Plate/Italy	Bethlehem Steel.
			CitiSteel USA Inc.
			Geneva Steel.
			Gulf States Steel.
			IPSCO Steel.
			National Steel.
			US Steel.
			United Steelworkers of America.
C–475–830	701–TA–413	Stainless Steel Bar/Italy	Carpenter Technology.
			Crucible Specialty Metals.
			Electralloy.
			Empire Specialty Steel.
			Republic Technologies International.
			Slater Steels.
			United Steelworkers of America.
C–489–502	701–TA–253	Welded Carbon Steel Pipe and Tube/Turkey	Allied Tube & Conduit.
			American Tube.
			Bernard Epps.
			Bock Industries.
			Bull Moose Tube.
			Central Steel Tube.
			Century Tube.
			Copperweld Tubing.
			Cyclops.
			Hughes Steel & Tube.
			Kaiser Steel.
			Laclede Steel.
			Maruichi American.
			Maverick Tube.
			Merchant Metals.
			Phoenix Steel.
			Pittsburgh Tube.
			Quanex.
			Sharon Tube.
			Southwestern Pipe.
			UNR-Leavitt.
			Welded Tube.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Western Tube & Conduit.
			Wheatland Tube.
C–489–806	701–TA–366	Pasta/Turkey	A Zerega's Sons.
			American Italian Pasta.
			Borden.
			D Merlino & Sons.
			Dakota Growers Pasta.
			Foulds.
			Gilster-Mary Lee.
			Gooch Foods.
			Hershey Foods.
			LaRinascente Macaroni Co.
			Pasta USA.
			Philadelphia Macaroni.
			ST Specialty Foods.
C–507–501	N/A	Raw In-Shell Pistachios/Iran	Blackwell Land Co.
			Cal Pure Pistachios Inc.
			California Pistachio Commission.
			California Pistachio Orchards.
			Keenan Farms Inc.
			Kern Pistachio Hulling & Drying Co-Op.
			Los Rancheros de Poco Pedro.
			Pistachio Producers of California.
			TM Duche Nut Co Inc.
C–507–601	N/A	Roasted In-Shell Pistachios/Iran	Cal Pure Pistachios Inc.
			California Pistachio Commission.
			Keenan Farms Inc.
			Kern Pistachio Hulling & Drying Co-Op.
			Pistachio Producers of California.
			TM Duche Nut Co Inc.
C–508–605	701–TA–286	Industrial Phosphoric Acid/Israel	Albright & Wilson.
			FMC.
			Hydrite Chemical.
			Monsanto.
			Stauffer Chemical.
C–533–063	303–TA–13	Iron Metal Castings/India	Campbell Foundry.
			Le Baron Foundry.
			Municipal Castings.
			Neenah Foundry.
			Pinkerton Foundry.
			US Foundry & Manufacturing.
			Vulcan Foundry.
C–533–807	701–TA–318	Sulfanilic Acid/India	R–M Industries.
C–533–818	701–TA–388	Cut-to-Length Carbon Steel Plate/India	Bethlehem Steel.
			CitiSteel USA Inc.
			Geneva Steel.
			Gulf States Steel.
			IPSCO Steel.
			National Steel.
			Tuscaloosa Steel.
			US Steel.
			United Steelworkers of America.
C–533–821	701–TA–405	Hot-Rolled Steel Products/India	Bethlehem Steel.
			Gallatin Steel.
			Independent Steelworkers.
			IPSCO.
			LTV Steel.
			National Steel.
			Nucor.
			Rouge Steel Co.
			Steel Dynamics.
			US Steel.
			United Steelworkers of America.
			WCI Steel Inc.
			Weirton Steel.
			Wheeling-Pittsburgh Steel Corp.
C–533–825	701–TA–415	Polyethylene Terephthalate Film, Sheet and Strip (PET Film)/India.	DuPont Teijin Films.
			Mitsubishi Polyester Film LLC.
			SKC America Inc.
			Toray Plastics (America).
C–533–829	701–TA–432	Prestressed Concrete Steel Wire Strand/India	American Spring Wire Corp.
			Insteel Wire Products Co.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Sivaco Georgia LLC. Strand Tech Martin Inc. Sumiden Wire Products Corp.
C–533–839	701–TA–437	Carbazole Violet Pigment 23/India	Allegheny Color Corp. Barker Fine Color Inc. Clariant Corp. Nation Ford Chemical Co. Sun Chemical Co.
C–533–844	701–TA–442	Certain Lined Paper School Supplies/India	Fay Paper Products Inc. MeadWestvaco Consumer & Office Products. Norcom Inc. Pacon Corp. Roaring Spring Blank Book Co. Top Flight Inc. United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (USW).
C–535–001	701–TA–202	Cotton Shop Towels/Pakistan	Milliken.
C–549–818	701–TA–408	Hot-Rolled Steel Products/Thailand	Bethlehem Steel. Gallatin Steel. Independent Steelworkers. IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
C–560–806	701–TA–389	Cut-to-Length Carbon Steel Plate/Indonesia	Bethlehem Steel. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. IPSCO Steel. National Steel. Tuscaloosa Steel. US Steel. United Steelworkers of America.
C–560–813	701–TA–406	Hot-Rolled Steel Products/Indonesia	Bethlehem Steel. Gallatin Steel. Independent Steelworkers. IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
C–560–819	701–TA–443	Certain Lined Paper School Supplies/Indonesia.	Fay Paper Products Inc. MeadWestvaco Consumer & Office Products. Norcom Inc. Pacon Corp. Roaring Spring Blank Book Co. Top Flight Inc. United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (USW).
C–580–602	701–TA–267	Top-of-the-Stove Stainless Steel Cooking Ware/Korea.	Farberware. Regal Ware. Revere Copper & Brass. WearEver/Proctor Silex.
C–580–818	701–TA–342	Cold-Rolled Carbon Steel Flat Products/Korea	Armco Steel. Bethlehem Steel.

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			California Steel Industries. Gulf States Steel. Inland Steel Industries. LTV Steel. National Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel.
C–580–818	701–TA–350	Corrosion-Resistant Carbon Steel Flat Products/Korea.	Armco Steel. Bethlehem Steel. California Steel Industries. Geneva Steel. Gulf States Steel. Inland Steel Industries. LTV Steel. Lukens Steel. National Steel. Nextech. Rouge Steel Co. Sharon Steel. Theis Precision Steel. Thompson Steel. US Steel. United Steelworkers of America. WCI Steel. Weirton Steel.
C–580–835	701–TA–382	Stainless Steel Sheet and Strip/Korea	Allegheny Ludlum. Armco Steel. Bethlehem Steel. Butler Armco Independent Union. Carpenter Technology Corp. J&L Specialty Steel. North American Stainless. United Steelworkers of America. Zanesville Armco Independent Organization.
C–580–837	701–TA–391	Cut-to-Length Carbon Steel Plate/Korea	Bethlehem Steel. CitiSteel USA Inc. Geneva Steel. Gulf States Steel. IPSCO Steel. National Steel. Tuscaloosa Steel. US Steel. United Steelworkers of America.
C–580–842	701–TA–401	Structural Steel Beams/Korea	Northwestern Steel and Wire. Nucor. Nucor-Yamato Steel. TXI-Chaparral Steel. United Steelworkers of America.
C–580–851	701–TA–431	DRAMs and DRAM Modules/Korea	Dominion Semiconductor LLC/Micron Technology Inc. Infineon Technologies Richmond LP. Micron Technology Inc.
C–583–604	701–TA–268	Top-of-the-Stove Stainless Steel Cooking Ware/Taiwan.	Farberware. Regal Ware. Revere Copper & Brass. WearEver/Proctor Silex.
C–791–806	701–TA–379	Stainless Steel Plate in Coils/South Africa	Allegheny Ludlum. Armco Steel. J&L Specialty Steel. Lukens Steel. North American Stainless. United Steelworkers of America.
C–791–810	701–TA–407	Hot-Rolled Steel Products/South Africa	Bethlehem Steel. Gallatin Steel. Independent Steelworkers.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			IPSCO. LTV Steel. National Steel. Nucor. Rouge Steel Co. Steel Dynamics. US Steel. United Steelworkers of America. WCI Steel Inc. Weirton Steel. Wheeling-Pittsburgh Steel Corp.
A–331–802	731–TA–1065	Certain Frozen Warmwater Shrimp and Prawns/Ecuador.	
A–351–838	731–TA–1063	Certain Frozen Warmwater Shrimp and Prawns/Brazil.	
A–533–840	731–TA–1066	Certain Frozen Warmwater Shrimp and Prawns/India.	
A–549–822	731–TA–1067	Certain Frozen Warmwater Shrimp and Prawns/Thailand.	
A–552–802	731–TA–1068	Certain Frozen Warmwater Shrimp and Prawns/Vietnam.	
A–570–893	731–TA–1064	Certain Frozen Warmwater Shrimp and Prawns/China.	
			Petitioners/Supporters for all six cases listed: Abadie, Al J. Abadie, Anthony. Abner, Charles. Abraham, Steven. Abshire, Gabriel J. Ackerman, Dale J. Acosta, Darryl L. Acosta, Jerry J Sr. Acosta, Leonard C. Acosta, Wilson Pula Sr. Adam, Denise T. Adam, Michael A. Adam, Richard B Jr. Adam, Sherry P. Adam, William E. Adam, Alcide J Jr. Adams, Dudley. Adams, Elizabeth L. Adams, Ervin. Adams, Ervin. Adams, George E. Adams, Hursy J. Adams, James Arthur. Adams, Kelly. Adams, Lawrence J Jr. Adams, Randy. Adams, Ritchie. Adams, Steven A. Adams, Ted J. Adams, Tim. Adams, Whitney P Jr. Agoff, Ralph J. Aguilar, Rikardo. Aguillard, Roddy G. Alario, Don Ray. Alario, Nat. Alario, Pete J. Alario, Timmy. Albert, Craig J. Albert, Junior J. Alexander, Everett O. Alexander, Robert F Jr. Alexie, Benny J. Alexie, Corkey A. Alexie, Dolphy. Alexie, Felix Jr. Alexie, Gwendolyn. Alexie, John J.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Alexie, John V. Alexie, Larry J Sr. Alexie, Larry Jr. Alexie, Vincent L Jr. Alexis, Barry S. Alexis, Craig W. Alexis, Micheal. Alexis, Monique. Alfonso, Anthony E Jr. Alfonso, Jesse. Alfonso, Nicholas. Alfonso, Paul Anthony. Alfonso, Randy. Alfonso, Terry S Jr. Alfonso, Vernon Jr. Alfonso, Yvette. Alimia, Angelo A Jr. Allemand, Dean J. Allen, Annie. Allen, Carolyn Sue. Allen, Jackie. Allen, Robin. Allen, Wayne. Allen, Wilbur L. Allen, Willie J III. Allen, Willie Sr. Alphonso, John. Ancalade, Leo J. Ancar, Claudene. Ancar, Jerry T. Ancar, Joe C. Ancar, Merlin Sr. Ancar, William Sr. Ancelet, Gerald Ray. Anderson, Andrew David. Anderson, Ernest W. Anderson, Jerry. Anderson, John. Anderson, Lynwood. Anderson, Melinda Rene. Anderson, Michael Brian. Anderson, Ronald L Sr. Anderson, Ronald Louis Jr. Andonie, Miguel. Andrews, Anthony R. Andry, Janice M. Andry, Rondey S. Angelle, Louis. Anglada, Eugene Sr. Ansardi, Lester. Anselmi, Darren. Aparicio, Alfred. Aparicio, David. Aparicio, Ernest. Arabie, Georgia P. Arabie, Joseph. Arcement, Craig J. Arcement, Lester C. Arcemont, Donald Sr. Arceneaux, Matthew J. Arceneaux, Michael K. Areas, Christopher J. Armbruster, John III. Armbruster, Paula D. Armstrong, Jude Jr. Arnesen, George. Arnold, Lonnie L Jr. Arnona, Joseph T. Arnondin, Robert. Arthur, Brenda J. Assavedo, Floyd. Atwood, Gregory Kenneth.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Au, Chow D. Au, Robert. Aucoin, Dewey F. Aucoin, Earl. Aucoin, Laine A. Aucoin, Perry J. Austin, Dennis. Austin, Dennis J. Authement, Brice. Authement, Craig L. Authement, Dion J. Authement, Gordon. Authement, Lance M. Authement, Larry. Authement, Larry Sr. Authement, Roger J. Authement, Sterling P. Autin, Bobby. Autin, Bruce J. Autin, Kenneth D. Autin, Marvin J. Autin, Paul F Jr. Autin, Roy. Avenel, Albert J Jr. Ba Wells, Tran Thi. Babb, Conny. Babin, Brad. Babin, Joey L. Babin, Klint. Babin, Molly. Babin, Norman J. Babineaux, Kirby. Babineaux, Vicki. Bach, Ke Van. Bach, Reo Long. Backman, Benny. Badeaux, Todd. Baham, Dewayne. Bailey, Albert. Bailey, Antoine III. Bailey, David B Sr. Bailey, Don. Baker, Clarence. Baker, Donald Earl. Baker, James. Baker, Kenneth. Baker, Ronald J. Balderas, Antonio. Baldwin, Richard Prentiss. Ballard, Albert. Ballas, Barbara A. Ballas, Charles J. Baltz, John F. Ban, John. Bang, Bruce K. Barbaree, Joe W. Barbe, Mark A and Cindy. Barber, Louie W Jr. Barber, Louie W Sr. Barbier, Percy T. Barbour, Raymond A. Bargainear, James E. Barisich, George A. Barisich, Joseph J. Barnette, Earl. Barnhill, Nathan. Barrios, Clarence. Barrios, Corbert J. Barrios, Corbert M. Barrios, David. Barrios, John. Barrios, Shane James.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Barrois, Angela Gail. Barrois, Dana A. Barrois, Tracy James. Barrois, Wendell Jude Jr. Barthe, Keith Sr. Barthelemy, Allen M. Barthelemy, John A. Barthelemy, Rene T Sr. Barthelemy, Walter A Jr. Bartholomew, Mitchell. Bartholomew, Neil W. Bartholomew, Thomas E. Bartholomew, Wanda C. Basse, Donald J Sr. Bates, Mark. Bates, Ted Jr. Bates, Vernon Jr. Battle, Louis. Baudoin, Drake J. Baudoin, Murphy A. Baudouin, Stephen. Bauer, Gary. Baye, Glen P. Bean, Charles A. Beazley, William E. Becnel, Glenn J. Becnel, Kent. Beecher, Carold F. Beechler, Ronald. Bell, James E. Bell, Ronald A. Bellanger, Arnold. Bellanger, Clifton. Bellanger, Scott J. Belsome, Derrell M. Belsome, Karl M. Bennett, Cecil A Jr. Bennett, Gary Lynn. Bennett, Irin Jr. Bennett, James W Jr. Bennett, Louis. Benoit, Francis J. Benoit, Nicholas L. Benoit, Paula T. Benoit, Tenna J Jr. Benton, Walter T. Berger, Ray W. Bergeron, Alfred Scott. Bergeron, Jeff. Bergeron, Nolan A. Bergeron, Ulysses J. Bernard, Lamont L. Berner, Mark J. Berthelot, Gerard J Sr. Berthelot, James A. Berthelot, Myron J. Bertrand, Jerl C. Beverung, Keith J. Bianchini, Raymond W. Bickham, Leo E. Bienvenu, Charles. Biggs, Jerry W Sr. Bigler, Delbert. Billington, Richard. Billiot, Alfredia. Billiot, Arthur. Billiot, Aubrey. Billiot, Barell J. Billiot, Betty. Billiot, Bobby J. Billiot, Brian K. Billiot, Cassidy.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Billiot, Charles Sr. Billiot, Chris J Sr. Billiot, E J E. Billiot, Earl W Sr. Billiot, Ecton L. Billiot, Emary. Billiot, Forest Jr. Billiot, Gerald. Billiot, Harold J. Billiot, Jacco A. Billiot, Jake A. Billiot, James Jr. Billiot, Joseph S Jr. Billiot, Laurence V. Billiot, Leonard F Jr. Billiot, Lisa. Billiot, Mary L. Billiot, Paul J Sr. Billiot, Shirley L. Billiot, Steve M. Billiot, Thomas Adam. Billiot, Thomas Sr. Billiot, Wenceslaus Jr. Billiott, Alexander J. Biron, Yale. Black, William C. Blackston, Larry E. Blackwell, Wade H III. Blackwell, Wade H Jr. Blanchard, Albert. Blanchard, Andrew J. Blanchard, Billy J. Blanchard, Cyrus. Blanchard, Daniel A. Blanchard, Dean. Blanchard, Douglas Jr. Blanchard, Dwayne. Blanchard, Elgin. Blanchard, Gilbert. Blanchard, Jade. Blanchard, James. Blanchard, John F Jr. Blanchard, Katie. Blanchard, Kelly. Blanchard, Matt Joseph. Blanchard, Michael. Blanchard, Quentin Timothy. Blanchard, Roger Sr. Blanchard, Walton H Jr. Bland, Quyen T. Blouin, Roy A. Blume, Jack Jr. Bodden, Arturo. Bodden, Jasper. Bollinger, Donald E. Bolotte, Darren W. Bolton, Larry F. Bondi, Paul J. Bonvillain, Jimmy J. Bonvillian, Donna M. Boone, Clifton Felix. Boone, Donald F II. Boone, Donald F III (Ricky). Boone, Gregory T. Boquet, Noriss P Jr. Boquet, Wilfred Jr. Bordelon, Glenn Sr. Bordelon, James P. Bordelon, Shelby P. Borden, Benny. Borne, Crystal. Borne, Dina L.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Borne, Edward Joseph Jr. Borne, Edward Sr. Bosarge, Hubert Lawrence. Bosarge, Robert. Bosarge, Sandra. Bosarge, Steve. Boudlauch, Durel A Jr. Boudoin, Larry Terrell. Boudoin, Nathan. Boudreaux, Brent J. Boudreaux, Elvin J III. Boudreaux, James C Jr. Boudreaux, James N. Boudreaux, Jessie. Boudreaux, Leroy A. Boudreaux, Mark. Boudreaux, Paul Sr. Boudreaux, Richard D. Boudreaux, Ronald Sr. Boudreaux, Sally. Boudreaux, Veronica. Boudwin, Dwayne. Boudwin, Jewel James Sr. Boudwin, Wayne. Bouise, Norman. Boulet, Irwin J Jr. Boullion, Debra. Bourg, Allen T. Bourg, Benny. Bourg, Chad J. Bourg, Channon. Bourg, Chris. Bourg, Douglas. Bourg, Glenn A. Bourg, Jearmie Sr. Bourg, Kent A. Bourg, Mark. Bourg, Nolan P. Bourg, Ricky J. Bourgeois, Albert P. Bourgeois, Brian J Jr. Bourgeois, Daniel. Bourgeois, Dwayne. Bourgeois, Jake. Bourgeois, Johnny M. Bourgeois, Johnny M Jr. Bourgeois, Leon A. Bourgeois, Louis A. Bourgeois, Merrie E. Bourgeois, Randy P. Bourgeois, Reed. Bourgeois, Webley. Bourn, Chris. Bourque, Murphy Paul. Bourque, Ray. Bousegard, Duvic Jr. Boutte, Manuel J Jr. Bouvier, Colbert A II. Bouzigard, Dale J. Bouzigard, Edgar J III. Bouzigard, Eeris. Bowers, Harold. Bowers, Tommy. Boyd, David E Sr. Boyd, Elbert. Boykin, Darren L. Boykin, Thomas Carol. Bradley, James. Brady, Brian. Brandhurst, Kay. Brandhurst, Ray E Sr. Brandhurst, Raymond J.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Braneff, David G. Brannan, William P. Branom, Donald James Jr. Braud, James M. Brazan, Frank J. Breaud, Irvin F Jr. Breaux, Barbara. Breaux, Brian J. Breaux, Charlie M. Breaux, Clifford. Breaux, Colin E. Breaux, Daniel Jr. Breaux, Larry J. Breaux, Robert J Jr. Breaux, Shelby. Briscoe, Robert F Jr. Britsch, L D Jr. Broussard, Dwayne E. Broussard, Eric. Broussard, Keith. Broussard, Larry. Broussard, Mark A. Broussard, Roger David. Broussard, Roger R. Broussard, Steve P. Brown, Cindy B. Brown, Colleen. Brown, Donald G. Brown, John W. Brown, Paul R. Brown, Ricky. Brown, Toby H. Bruce, Adam J. Bruce, Adam J Jr. Bruce, Bob R. Bruce, Daniel M Sr. Bruce, Eli T Sr. Bruce, Emelda L. Bruce, Gary J Sr. Bruce, James P. Bruce, Lester J Jr. Bruce, Margie L. Bruce, Mary P. Bruce, Nathan. Bruce, Robert. Bruce, Russell. Brudnock, Peter Sr. Brunet, Elton J. Brunet, Joseph A. Brunet, Joseph A. Brunet, Levy J Jr. Brunet, Raymond Sr. Bryan, David N. Bryant, Ina Fay V. Bryant, Jack D Sr. Bryant, James Larry. Buford, Ernest. Bui, Ben. Bui, Dich. Bui, Dung Thi. Bui, Huong T. Bui, Ngan. Bui, Nhuan. Bui, Nuoi Van. Bui, Tai. Bui, Tieu. Bui, Tommy. Bui, Xuan and De Nguyen. Bui, Xuanmai. Bull, Delbert E. Bundy, Belvina (Kenneth). Bundy, Kenneth Sr.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Bundy, Nicky. Bundy, Ronald J. Bundy, Ronnie J. Buquet, John Jr. Buras, Clayton M. Buras, Leander. Buras, Robert M Jr. Buras, Waylon J. Burlett, Elliott C. Burlett, John C Jr. Burnell, Charles B. Burnell, Charles R. Burnham, Deanna Lea. Burns, Stuart E. Burroughs, Lindsey Hilton Jr. Burton, Ronnie. Busby, Hardy E. Busby, Tex H. Busch, RC. Bush, Robert A. Bussey, Tyler. Butcher, Dorothy. Butcher, Rocky J. Butler, Albert A. Butler, Aline M. Bychurch, Johnny. Bychurch, Johnny Jr. Cabanilla, Alex. Caboz, Jose Santos. Cacioppo, Anthony Jr. Caddell, David. Cadiere, Mae Quick. Cadiere, Ronald J. Cahill, Jack. Caillouet, Stanford Jr. Caison, Jerry Lane Jr. Calcagno, Stephen Paul Sr. Calderone, John S. Callahan, Gene P Sr. Callahan, Michael J. Callahan, Russell. Callais, Ann. Callais, Franklin D. Callais, Gary D. Callais, Michael. Callais, Michael. Callais, Sandy. Callais, Terrence. Camardelle, Anna M. Camardelle, Chris J. Camardelle, David. Camardelle, Edward J III. Camardelle, Edward J Jr. Camardelle, Harris A. Camardelle, Knowles. Camardelle, Noel T. Camardelle, Tilman J. Caminita, John A III. Campo, Donald Paul. Campo, Kevin. Campo, Nicholas J. Campo, Roy. Campo, Roy Sr. Camus, Ernest M Jr. Canova, Carl. Cantrelle, Alvin. Cantrelle, Eugene J. Cantrelle, Otis A Sr. Cantrelle, Otis Jr (Buddy). Cantrelle, Philip A. Cantrelle, Tate Joseph. Canty, Robert Jamies.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Cao, Anna. Cao, Billy. Cao, Billy Viet. Cao, Binh Quang. Cao, Chau. Cao, Dan Dien. Cao, Dung Van. Cao, Gio Van. Cao, Heip A. Cao, Linh Huyen. Cao, Nghia Thi. Cao, Nhieu V. Cao, Si-Van. Cao, Thanh Kim. Cao, Tuong Van. Carinhas, Jack G Jr. Carl, Joseph Allen. Carlos, Gregory. Carlos, Irvin. Carmadelle, David J. Carmadelle, Larry G. Carmadelle, Rudy J. Carrere, Anthony T Jr. Carrier, Larry J. Caruso, Michael. Casanova, David W Sr. Cassagne, Alphonse G III. Cassagne, Alphonse G IV. Cassidy, Mark. Casso, Joseph. Castelin, Gilbert. Castelin, Sharon. Castellanos, Raul L. Castelluccio, John A Jr. Castille, Joshua. Caulfield, Adolph Jr. Caulfield, Hope. Caulfield, James M Jr. Caulfield, Jean. Cepriano, Salvador. Cerdes, Julius W Jr. Cerise, Marla. Chabert, John. Chaisson, Dean J. Chaisson, Henry. Chaisson, Vincent A. Chaix, Thomas B III. Champagne, Brian. Champagne, Harold P. Champagne, Kenton. Champagne, Leon J. Champagne, Leroy A. Champagne, Lori. Champagne, Timmy D. Champagne, Willard. Champlin, Kim J. Chance, Jason R. Chancey, Jeff. Chapa, Arturo. Chaplin Robert G Sr. Chaplin, Saxby Stowe. Charles, Christopher. Charpentier, Allen J. Charpentier, Alvin J. Charpentier, Daniel J. Charpentier, Lawrence. Charpentier, Linton. Charpentier, Melanie. Charpentier, Murphy Jr. Charpentier, Robert J. Chartier, Michelle. Chau, Minh Huu.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Chauvin, Anthony. Chauvin, Anthony P Jr. Chauvin, Carey M. Chauvin, David James. Chauvin, James E. Chauvin, Kimberly Kay. Cheeks, Alton Bruce. Cheers, Elwood. Chenier, Ricky. Cheramie, Alan. Cheramie, Alan J Jr. Cheramie, Alton J. Cheramie, Berwick Jr. Cheramie, Berwick Sr. Cheramie, Daniel James Sr. Cheramie, Danny. Cheramie, David J. Cheramie, David P. Cheramie, Dickey J. Cheramie, Donald. Cheramie, Enola. Cheramie, Flint. Cheramie, Harold L. Cheramie, Harry J Sr. Cheramie, Harry Jr. Cheramie, Harvey Jr. Cheramie, Harvey Sr. Cheramie, Henry J Sr. Cheramie, James A. Cheramie, James P. Cheramie, Jody P. Cheramie, Joey J. Cheramie, Johnny. Cheramie, Joseph A. Cheramie, Lee Allen. Cheramie, Linton J. Cheramie, Mark A. Cheramie, Murphy J. Cheramie, Nathan A Sr. Cheramie, Neddy P. Cheramie, Nicky J. Cheramie, Ojess M. Cheramie, Paris P. Cheramie, Robbie. Cheramie, Rodney E Jr. Cheramie, Ronald. Cheramie, Roy. Cheramie, Roy A. Cheramie, Sally K. Cheramie, Terry J. Cheramie, Terry Jr. Cheramie, Timmy. Cheramie, Tina. Cheramie, Todd M. Cheramie, Tommy. Cheramie, Wayne A. Cheramie, Wayne A Jr. Cheramie, Wayne F Sr. Cheramie, Wayne J. Cheramie, Webb Jr. Chevalier, Mitch. Chew, Thomas J. Chhun, Samantha. Chiasson, Jody J. Chiasson, Manton P Jr. Chiasson, Michael P. Childress, Gordon. Chisholm, Arthur. Chisholm, Henry Jr. Christen, David Jr. Christen, Vernon. Christmas, John T Jr.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Chung, Long V. Ciaccio, Vance. Cibilic, Bozidar. Cieutat, John. Cisneros, Albino. Ciuffi, Michael L. Clark, James M. Clark, Jennings. Clark, Mark A. Clark, Ricky L. Cobb, Michael A. Cochran, Jimmy. Coleman, Ernest. Coleman, Freddie Jr. Colletti, Rodney A. Collier, Ervin J. Collier, Wade. Collins, Bernard J. Collins, Bruce J Jr. Collins, Donald. Collins, Earline. Collins, Eddie F Jr. Collins, Jack. Collins, Jack. Collins, Julius. Collins, Lawson Bruce Sr. Collins, Lindy S Jr. Collins, Logan A Jr. Collins, Robert. Collins, Timmy P. Collins, Vendon Jr. Collins, Wilbert Jr. Collins, Woodrow. Colson, Chris and Michelle. Comardelle, Michael J. Comeaux, Allen J. Compeaux, Curtis J. Compeaux, Gary P. Compeaux, Harris. Cone, Jody. Contreras, Mario. Cook, Edwin A Jr. Cook, Edwin A Sr. Cook, Joshua. Cook, Larry R Sr. Cook, Scott. Cook, Theodore D. Cooksey, Ernest Neal. Cooper, Acy J III. Cooper, Acy J Jr. Cooper, Acy Sr. Cooper, Christopher W. Cooper, Jon C. Cooper, Marla F. Cooper, Vincent J. Copeman, John R. Corley, Ronald E. Cornett, Eddie. Cornwall, Roger. Cortez, Brenda M. Cortez, Cathy. Cortez, Curtis. Cortez, Daniel P. Cortez, Edgar. Cortez, Keith J. Cortez, Leslie J. Cosse, Robert K. Coston, Clayton. Cotsovolos, John Gordon. Coulon, Allen J Jr. Coulon, Allen J Sr. Coulon, Amy M.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Coulon, Cleveland F. Coulon, Darrin M. Coulon, Don. Coulon, Earline N. Coulon, Ellis Jr. Coursey, John W. Courville, Ronnie P. Cover, Darryl L. Cowdrey, Michael Dudley. Cowdrey, Michael Nelson. Crain, Michael T. Crawford, Bryan D. Crawford, Steven J. Creamer, Quention. Credeur, Todd A Sr. Credeur, Tony J. Creppel, Carlton. Creppel, Catherine. Creppel, Craig Anthony. Creppel, Freddy. Creppel, Isadore Jr. Creppel, Julinne G III. Creppel, Kenneth. Creppel, Kenneth. Creppel, Nathan J Jr. Creppell, Michel P. Cristina, Charles J. Crochet, Sterling James. Crochet, Tony J. Crosby, Benjy J. Crosby, Darlene. Crosby, Leonard W Jr. Crosby, Ted J. Crosby, Thomas. Crum, Lonnie. Crum, Tommy Lloyd. Cruz, Jesus. Cubbage, Melinda T. Cuccia, Anthony J. Cuccia, Anthony J Jr. Cuccia, Kevin. Cumbie, Bryan E. Cure, Mike. Curole, Keith J. Curole, Kevin P. Curole, Margaret B. Curole, Willie P Jr. Cutrer, Jason C. Cvitanovich, T. Daigle, Alfred. Daigle, Cleve and Nona. Daigle, David John. Daigle, EJ. Daigle, Glenn. Daigle, Jamie J. Daigle, Jason. Daigle, Kirk. Daigle, Leonard P. Daigle, Lloyd. Daigle, Louis J. Daigle, Melanie. Daigle, Michael J. Daigle, Michael Wayne and JoAnn. Daisy, Jeff. Dale, Cleveland L. Dang, Ba. Dang, Dap. Dang, David. Dang, Duong. Dang, Khang. Dang, Khang and Tam Phan. Dang, Loan Thi.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Dang, Minh. Dang, Minh Van. Dang, Son. Dang, Tao Kevin. Dang, Thang Duc. Dang, Thien Van. Dang, Thuong. Dang, Thuy. Dang, Van D. Daniels, David. Daniels, Henry. Daniels, Leslie. Danos, Albert Sr. Danos, James A. Danos, Jared. Danos, Oliver J. Danos, Ricky P. Danos, Rodney. Danos, Timothy A. d'Antignac, Debi. d'Antignac, Jack. Dantin, Archie A. Dantin, Mark S Sr. Dantin, Stephen Jr. Dao, Paul. Dao, Vang. Dao-Nguyen, Chrysti. Darda, Albert L Jr. Darda, Gertrude. Darda, Herbert. Darda, J C. Darda, Jeremy. Darda, Tammy. Darda, Trudy. Dardar, Alvin. Dardar, Basile J. Dardar, Basile Sr. Dardar, Cindy. Dardar, David. Dardar, Donald S. Dardar, Edison J Sr. Dardar, Gayle Picou. Dardar, Gilbert B. Dardar, Gilbert Sr. Dardar, Isadore J Jr. Dardar, Jacqueline. Dardar, Jonathan M. Dardar, Lanny. Dardar, Larry J. Dardar, Many. Dardar, Neal A. Dardar, Norbert. Dardar, Patti V. Dardar, Percy B Sr. Dardar, Rose. Dardar, Rusty J. Dardar, Samuel. Dardar, Summersgill. Dardar, Terry P. Dardar, Toney M Jr. Dardar, Toney Sr. Dargis, Stephen M. Dassau, Louis. David, Philip J Jr. Davis, Cliff. Davis, Daniel A. Davis, Danny A. Davis, James. Davis, John W. Davis, Joseph D. Davis, Michael Steven. Davis, Ronald B.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Davis, William T Jr. Davis, William Theron. Dawson, JT. de la Cruz, Avery T. Dean, Ilene L. Dean, John N. Dean, Stephen. DeBarge, Brian K. DeBarge, Sherry. DeBarge, Thomas W. Decoursey, John. Dedon, Walter. Deere, Daryl. Deere, David E. Deere, Dennis H. Defelice, Robin. Defelice, Tracie L. DeHart, Ashton J Sr. Dehart, Bernard J. Dehart, Blair. Dehart, Clevis. Dehart, Clevis Jr. DeHart, Curtis P Sr. Dehart, Eura Sr. Dehart, Ferrell John. Dehart, Leonard M. DeHart, Troy. DeJean, Chris N Jr. DeJean, Chris N Sr. Dekemel, Bonnie D. Dekemel, Wm J Jr. Delande, Paul. Delande, Ten Chie. Delatte, Michael J Sr. Delaune, Kip M. Delaune, Thomas J. Delaune, Todd J. Delcambre, Carroll A. Delgado, Jesse. Delino, Carlton. Delino, Lorene. Deloach, Stephen W Jr. DeMoll, Herman J Jr. DeMoll, Herman J Sr. DeMoll, James C Jr. DeMoll, Ralph. DeMoll, Robert C. DeMoll, Terry R. DeMolle, Freddy. DeMolle, Otis. Dennis, Fred. Denty, Steve. Deroche, Barbara H. Derouen, Caghe. Deshotel, Rodney. DeSilvey, David. Despaux, Byron J. Despaux, Byron J Jr. Despaux, Glen A. Despaux, Ken. Despaux, Kerry. Despaux, Suzanna. Detillier, David E. DeVaney, Bobby C Jr. Dickey, Wesley Frank. Diep, Vu. Dinger, Anita. Dinger, Corbert Sr. Dinger, Eric. Dingler, Mark H. Dinh, Chau Thanh. Dinh, Khai Duc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Dinh, Lien. Dinh, Toan. Dinh, Vincent. Dion, Ernest. Dion, Paul A. Dion, Thomas Autry. Disalvo, Paul A. Dismuke, Robert E Sr. Ditcharo, Dominick III. Dixon, David. Do, Cuong V. Do, Dan C. Do, Dung V. Do, Hai Van. Do, Hieu. Do, Hung V. Do, Hung V. Do, Johnny. Do, Kiet Van. Do, Ky Hong. Do, Ky Quoc. Do, Lam. Do, Liet Van. Do, Luong Van. Do, Minh Van. Do, Nghiep Van. Do, Ta. Do, Ta Phon. Do, Than Viet. Do, Thanh V. Do, Theo Van. Do, Thien Van. Do, Tinh A. Do, Tri. Do, Vi V. Doan, Anh Thi. Doan, Joseph. Doan, Mai. Doan, Minh. Doan, Ngoc. Doan, Tran Van. Domangue, Darryl. Domangue, Emile. Domangue, Mary. Domangue, Michael. Domangue, Paul. Domangue, Ranzell Sr. Domangue, Stephen. Domangue, Westley. Domingo, Carolyn. Dominique, Amy R. Dominque, Gerald R. Donini, Ernest N. Donnelly, David C. Donohue, Holly M. Dooley, Denise F. Dopson, Craig B. Dore, Presley J. Dore, Preston J Jr. Dorr, Janthan C Jr. Doucet, Paul J Sr. Downey, Colleen. Doxey, Robert Lee Sr. Doxey, Ruben A. Doxey, William L. Doyle, John T. Drawdy, John Joseph. Drury, Bruce W Jr. Drury, Bruce W Sr. Drury, Bryant J. Drury, Eric S. Drury, Helen M.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Drury, Jeff III. Drury, Kevin. Drury, Kevin S Sr. Drury, Steve R. Drury, Steven J. Dubberly, James F. Dubberly, James Michael. Dubberly, James Michael Jr. Dubberly, John J. Dubois, Euris A. Dubois, John D Jr. Dubois, Lonnie J. Duck, Kermit Paul. Dudenhefer, Anthony. Dudenhefer, Connie S. Dudenhefer, Eugene A. Dudenhefer, Milton J Jr. Duet, Brad J. Duet, Darrel A. Duet, Guy J. Duet, Jace J. Duet, Jay. Duet, John P. Duet, Larson. Duet, Ramie. Duet, Raymond J. Duet, Tammy B. Duet, Tyrone. Dufrene, Archie. Dufrene, Charles. Dufrene, Curt F. Dufrene, Elson A. Dufrene, Eric F. Dufrene, Eric F Jr. Dufrene, Eric John. Dufrene, Golden J. Dufrene, Jeremy M. Dufrene, Juliette B. Dufrene, Leroy J. Dufrene, Milton J. Dufrene, Ronald A Jr. Dufrene, Ronald A Sr. Dufrene, Scottie M. Dufrene, Toby. Dugar, Edward A II. Dugas, Donald John. Dugas, Henri J IV. Duhe, Greta. Duhe, Robert. Duhon, Charles. Duhon, Douglas P. Duncan, Faye E. Duncan, Gary. Duncan, Loyde C. Dunn, Bob. Duong, Billy. Duong, Chamroeun. Duong, EM. Duong, Ho Tan Phi. Duong, Kong. Duong, Mau. Duplantis, Blair P. Duplantis, David. Duplantis, Frankie J. Duplantis, Maria. Duplantis, Teddy W. Duplantis, Wedgir J Jr. Duplessis, Anthony James Sr. Duplessis, Bonnie S. Duplessis, Clarence R. Dupre, Brandon P. Dupre, Cecile.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Dupre, David A. Dupre, Davis J Jr. Dupre, Easton J. Dupre, Jimmie Sr. Dupre, Linward P. Dupre, Mary L. Dupre, Michael J. Dupre, Michael J Jr. Dupre, Randall P. Dupre, Richard A. Dupre, Rudy P. Dupre, Ryan A. Dupre, Tony J. Dupre, Troy A. Dupree, Bryan. Dupree, Derrick. Dupree, Malcolm J Sr. Dupuis, Clayton J. Durand, Walter Y. Dusang, Melvin A. Duval, Denval H Sr. Duval, Wayne. Dyer, Nadine D. Dyer, Tony. Dykes, Bert L. Dyson, Adley L Jr. Dyson, Adley L Sr. Dyson, Amy. Dyson, Casandra. Dyson, Clarence III. Dyson, Jimmy Jr. Dyson, Jimmy L Sr. Dyson, Kathleen. Dyson, Maricela. Dyson, Phillip II. Dyson, Phillip Sr. Dyson, William. Eckerd, Bill. Edens, Angela Blake. Edens, Donnie. Edens, Jeremy Donald. Edens, Nancy M. Edens, Steven L. Edens, Timothy Dale. Edgar, Daniel. Edgar, Joey. Edgerson, Roosevelt. Edwards,Tommy W III. Ellerbee, Jody Duane. Ellison, David Jr. Encalade, Alfred Jr. Encalade, Anthony T. Encalade, Cary. Encalade, Joshua C. Encalade, Stanley A. Enclade, Joseph L. Enclade, Michael Sr and Jeannie Pitre. Enclade, Rodney J. Englade, Alfred. Ennis, A L Jr. Erickson, Grant G. Erlinger, Carroll. Erlinger, Gary R. Eschete, Keith A. Esfeller, Benny A. Eskine, Kenneth. Esponge, Ernest J. Estaves, David Sr. Estaves, Ricky Joseph. Estay, Allen J. Estay, Wayne. Esteves, Anthony E Jr.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Estrada, Orestes. Evans, Emile J Jr. Evans, Kevin J. Evans, Lester. Evans, Lester J Jr. Evans, Tracey J Sr. Everson, George C. Eymard, Brian P Sr. Eymard, Jervis J and Carolyn B. Fabiano, Morris C. Fabra, Mark. Fabre, Alton Jr. Fabre, Ernest J. Fabre, Kelly V. Fabre, Peggy B. Fabre, Sheron. Fabre, Terry A. Fabre, Wayne M. Falcon, Mitchell J. Falgout, Barney. Falgout, Jerry P. Falgout, Leroy J. Falgout, Timothy J. Fanguy, Barry G. Fanning, Paul Jr. Farris, Thomas J. Fasone, Christopher J. Fasone, William J. Faulk, Lester J. Favaloro, Thomas J. Favre, Michael Jr. Fazende, Jeffery. Fazende, Thomas. Fazende, Thomas G. Fazzio, Anthony. Fazzio, Douglas P. Fazzio, Maxine J. Fazzio, Steve. Felarise, EJ. Felarise, Wayne A Sr. Fernandez, John. Fernandez, Laudelino. Ferrara, Audrey B. Ficarino, Dominick Jr. Fields, Bryan. Fillinich, Anthony. Fillinich, Anthony Sr. Fillinich, Jack. Fincher, Penny. Fincher, William. Fisch, Burton E. Fisher, Kelly. Fisher, Kirk. Fisher, Kirk A. Fitch, Adam. Fitch, Clarence J Jr. Fitch, Hanson. Fitzgerald, Burnell. Fitzgerald, Kirk. Fitzgerald, Kirk D. Fitzgerald, Ricky J Jr. Fleming, John M. Fleming, Meigs F. Fleming, Mike. Flick, Dana. Flores, Helena D. Flores, Thomas. Flowers, Steve W. Flowers, Vincent F. Folse, David M. Folse, Heath. Folse, Mary L.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Folse, Ronald B. Fonseca, Francis Sr. Fontaine, William S. Fontenot, Peggy D. Ford, Judy. Ford, Warren Wayne. Foreman, Ralph Jr. Foret, Alva J. Foret, Billy J. Foret, Brent J. Foret, Glenn. Foret, Houston. Foret, Jackie P. Foret, Kurt J Sr. Foret, Lovelace A Sr. Foret, Loveless A Jr. Foret, Mark M. Foret, Patricia C. Forrest, David P. Forsyth, Hunter. Forsythe, John. Fortune, Michael A. France, George J. Francis, Albert. Franklin, James K. Frankovich, Anthony. Franks, Michael. Frauenberger, Richard Wayne. Frazier, David J. Frazier, David M. Frazier, James. Frazier, Michael. Frederick, Davis. Frederick, Johnnie and Jeannie. Fredrick, Michael. Freeman, Arthur D. Freeman, Darrel P Sr. Freeman, Kenneth F. Freeman, Larry Scott. Frelich, Charles P. Frelich, Floyd J. Frelich, Kent. Frerics, Doug. Frerks, Albert R Jr. Frickey, Darell. Frickey, Darren. Frickey, Dirk I. Frickey, Eric J. Frickey, Harry J Jr. Frickey, Jimmy. Frickey, Rickey J. Frickey, Westley J. Friloux, Brad. Frisella, Jeanette M. Frisella, Jerome A Jr. Frost, Michael R. Fruge, Wade P. Gadson, James. Gaines, Dwayne. Gala, Christine. Galjour, Jess J. Galjour, Reed. Gallardo, John W. Gallardo, Johnny M. Galliano, Anthony. Galliano, Horace J. Galliano, Joseph Sr. Galliano, Logan J. Galliano, Lynne L. Galliano, Moise Jr. Galloway, AT Jr. Galloway, Jimmy D.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Galloway, Judy L. Galloway, Mark D. Galt, Giles F. Gambarella, Luvencie J. Ganoi, Kristine. Garcia, Ana Maria. Garcia, Anthony. Garcia, Edward. Garcia, Kenneth. Garner, Larry S. Gary, Dalton J. Gary, Ernest J. Gary, Leonce Jr. Garza, Andrew. Garza, Jose H. Gaskill, Elbert Clinton and Sandra. Gaspar, Timothy. Gaspard, Aaron and Hazel C. Gaspard, Dudley A Jr. Gaspard, Leonard J. Gaspard, Michael A. Gaspard, Michael Sr. Gaspard, Murry. Gaspard, Murry A Jr. Gaspard, Murry Sr. Gaspard, Murvin. Gaspard, Ronald Sr. Gaspard, Ronald Wayne Jr. Gaubert, Elizabeth. Gaubert, Gregory M. Gaubert, Melvin. Gaudet, Allen J IV. Gaudet, Ricky Jr. Gauthier, Hewitt J Sr. Gautreaux, William A. Gay, Norman F. Gay, Robert G. Gazzier, Daryl G. Gazzier, Emanuel A. Gazzier, Wilfred E. Gegenheimer, William F. Geiling, James. Geisman, Tony. Gentry, Robert. Gentry, Samuel W Jr. George, James J Jr. Gerica, Clara. Gerica, Peter. Giambrone, Corey P. Gibson, Eddie E. Gibson, Joseph. Gibson, Ronald F. Gilden, Eddie Jr. Gilden, Eddie Sr. Gilden, Inez W. Gilden, Wayne. Gillikin, James D. Girard, Chad Paul. Giroir, Mark S. Gisclair, Anthony J. Gisclair, Anthony Joseph Sr. Gisclair, August. Gisclair, Dallas J Sr. Gisclair, Doyle A. Gisclair, Kip J. Gisclair, Ramona D. Gisclair, Wade. Gisclair, Walter. Glover, Charles D. Glynn, Larry. Goetz, George. Goings, Robert Eugene.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Golden, George T. Golden, William L. Gollot, Brian. Gollot, Edgar R. Gonzales, Arnold Jr. Gonzales, Mrs Cyril E Jr. Gonzales, Rene R. Gonzales, Rudolph S Jr. Gonzales, Rudolph S Sr. Gonzales, Sylvia A. Gonzales, Tim J. Gonzalez, Jorge Jr. Gonzalez, Julio. Gordon, Donald E. Gordon, Patrick Alvin. Gore, Henry H. Gore, Isabel. Gore, Pam. Gore, Thomas L. Gore, Timothy Ansel. Gottschalk, Gregory. Gourgues, Harold C Jr. Goutierrez, Tony C. Govea, Joaquin. Graham, Darrell. Graham, Steven H. Granger, Albert J Sr. Granich, James. Granier, Stephen J. Grass, Michael. Graves, Robert N Sr. Gray, Jeannette. Gray, Monroe. Gray, Shirley E. Gray, Wayne A Sr. Graybill, Ruston. Green, Craig X. Green, James W. Green, James W Jr. Green, Shaun. Greenlaw, W C Jr. Gregoire, Ernest L. Gregoire, Rita M. Gregory, Curtis B. Gregory, Mercedes E. Grice, Raymond L Jr. Griffin, Alden J Sr. Griffin, Craig. Griffin, David D. Griffin, Elvis Joseph Jr. Griffin, Faye. Griffin, Faye Ann. Griffin, Jimmie J. Griffin, Nolty J. Griffin, Rickey. Griffin, Sharon. Griffin, Timothy. Griffin, Troy D. Groff, Alfred A. Groff, John A. Groover, Hank. Gros, Brent J Sr. Gros, Craig J. Gros, Danny A. Gros, Gary Sr. Gros, Junius A Jr. Gros, Keven. Gros, Michael A. Gross, Homer. Grossie, Janet M. Grossie, Shane A. Grossie, Tate.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Grow, Jimmie C. Guenther, John J. Guenther, Raphael. Guerra, Bruce. Guerra, Chad L. Guerra, Fabian C. Guerra, Guy A. Guerra, Jerry V Sr. Guerra, Kurt P Sr. Guerra, Ricky J Sr. Guerra, Robert. Guerra, Ryan. Guerra, Troy A. Guerra, William Jr. Guidroz, Warren J. Guidry, Alvin A. Guidry, Andy J. Guidry, Arthur. Guidry, Bud. Guidry, Calvin P. Guidry, Carl J. Guidry, Charles J. Guidry, Chris J. Guidry, Clarence P. Guidry, Clark. Guidry, Clint. Guidry, Clinton P Jr. Guidry, Clyde A. Guidry, David. Guidry, Dobie. Guidry, Douglas J Sr. Guidry, Elgy III. Guidry, Elgy Jr. Guidry, Elwin A Jr. Guidry, Gerald A. Guidry, Gordon Jr. Guidry, Guillaume A. Guidry, Harold. Guidry, Jason. Guidry, Jessie J. Guidry, Jessie Joseph. Guidry, Jonathan B. Guidry, Joseph T Jr. Guidry, Keith M. Guidry, Kenneth J. Guidry, Kerry A. Guidry, Marco. Guidry, Maurin T and Tamika. Guidry, Michael J. Guidry, Nolan J Sr. Guidry, Randy Peter Sr. Guidry, Rhonda S. Guidry, Robert C. Guidry, Robert Joseph. Guidry, Robert Wayne. Guidry, Roger. Guidry, Ronald. Guidry, Roy Anthony. Guidry, Roy J. Guidry, Tammy. Guidry, Ted. Guidry, Thomas P. Guidry, Timothy. Guidry, Troy. Guidry, Troy. Guidry, Ulysses. Guidry, Vicki. Guidry, Wayne J. Guidry, Wyatt. Guidry, Yvonne. Guidry-Calva, Holly A. Guilbeaux, Donald J.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Guilbeaux, Lou. Guillie, Shirley. Guillory, Horace H. Guillot, Benjamin J Jr. Guillot, Rickey A. Gulledge, Lee. Gutierrez, Anita. Guy, Jody. Guy, Kimothy Paul. Guy, Wilson. Ha, Cherie Lan. Ha, Co Dong. Ha, Lai Thuy Thi. Ha, Lyanna. Hadwall, John R. Hafford, Johnny. Hagan, Jules. Hagan, Marianna. Haiglea, Robbin Richard. Hales, William E. Halili, Rhonda L. Hall, Byron S. Hall, Darrel T Sr. Hall, Lorrie A. Hammer, Michael P. Hammock, Julius Michael. Hancock, Jimmy L. Handlin, William Sr. Hang, Cam T. Hansen, Chris. Hansen, Eric P. Hanson, Edmond A. Harbison, Louis. Hardee, William P. Hardison, Louis. Hardy John C. Hardy, Sharon. Harmon, Michelle. Harrington, George J. Harrington, Jay. Harris, Bobby D. Harris, Buster. Harris, Jimmy Wayne Sr. Harris, Johnny Ray. Harris, Kenneth A. Harris, Ronnie. Harris, Susan D. Harris, William. Harrison, Daniel L. Hartmann, Leon M Jr. Hartmann, Walter Jr. Hattaway, Errol Henry. Haycock, Kenneth. Haydel, Gregory. Hayes, Clinton. Hayes, Katherine F. Hayes, Lod Jr. Hean, Hong. Heathcock, Walter Jr. Hebert, Albert Joseph. Hebert, Bernie. Hebert, Betty Jo. Hebert, Chris. Hebert, Craig J. Hebert, David. Hebert, David Jr. Hebert, Earl J. Hebert, Eric J. Hebert, Jack M. Hebert, Johnny Paul. Hebert, Jonathan. Hebert, Jules J.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Hebert, Kim M. Hebert, Lloyd S III. Hebert, Michael J. Hebert, Myron A. Hebert, Norman. Hebert, Patrick. Hebert, Patrick A. Hebert, Pennington Jr. Hebert, Philip. Hebert, Robert A. Hebert, Terry W. Hedrick, Gerald J Jr. Helmer, Claudia A. Helmer, Gerry J. Helmer, Herman C Jr. Helmer, Kenneth. Helmer, Larry J Sr. Helmer, Michael A Sr. Helmer, Rusty L. Helmer, Windy. Hemmenway, Jack. Henderson, Brad. Henderson, Curtis. Henderson, David A Jr. Henderson, David A Sr. Henderson, Johnny. Henderson, Olen. Henderson, P Loam. Henry, Joanne. Henry, Rodney. Herbert, Patrick and Terry. Hereford, Rodney O Jr. Hereford, Rodney O Sr. Hernandez, Corey. Herndon, Mark. Hertel, Charles W. Hertz, Edward C Sr. Hess, Allen L Sr. Hess, Henry D Jr. Hess, Jessica R. Hess, Wayne B. Hewett, Emma. Hewett, James. Hickman, John. Hickman, Marvin. Hicks, Billy M. Hicks, James W. Hicks, Larry W. Hicks, Walter R. Hien, Nguyen. Higgins, Joseph J III. Hill, Darren S. Hill, Joseph R. Hill, Sharon. Hill, Willie E Jr. Hills, Herman W. Hingle, Barbara E. Hingle, Rick A. Hingle, Roland T Jr. Hingle, Roland T Sr. Hingle, Ronald J. Hinojosa, R. Hinojosa, Randy. Hinojosa, Ricky A. Hipps, Nicole Marie. Ho, Dung Tan. Ho, Hung. Ho, Jennifer. Ho, Jimmy. Ho, Lam. Ho, Nam. Ho, Nga T.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Ho, O. Ho, Sang N. Ho, Thanh Quoc. Ho, Thien Dang. Ho, Tien Van. Ho, Tri Tran. Hoang, Dung T. Hoang, Hoa T and Tam Hoang. Hoang, Huy Van. Hoang, Jennifer Vu. Hoang, John. Hoang, Julie. Hoang, Kimberly. Hoang, Linda. Hoang, Loan. Hoang, San Ngoc. Hoang, Tro Van. Hoang, Trung Kim. Hoang, Trung Tuan. Hoang, Vincent Huynh. Hodges, Ralph W. Hoffpaviiz, Harry K. Holland, Vidal. Holler, Boyce Dwight Jr. Hollier, Dennis J. Holloway, Carl D. Hong, Tai Van. Hood, Malcolm. Hopton, Douglas. Horaist, Shawn P. Hostetler, Warren L II. Hotard, Claude. Hotard, Emile J Jr. Howard, Jeff. Howerin, Billy Sr. Howerin, Wendell Sr. Hubbard, Keith. Hubbard, Perry III. Huber, Berry T. Huber, Charles A. Huck, Irma Elaine. Huck, Steven R. Huckabee, Harold. Hue, Patrick A. Hughes, Brad J. Hults, Thomas. Hutcherson, Daniel J. Hutchinson, Douglas. Hutchinson, George D. Hutchinson, William H. Hutto, Cynthia E. Hutto, Henry G Jr. Huynh, Chien Thi. Huynh, Dong Xuan. Huynh, Dung. Huynh, Dung V. Huynh, Hai. Huynh, Hai. Huynh, Hai Van. Huynh, Hoang D. Huynh, Hoang Van. Huynh, Hung. Huynh, James N. Huynh, Johhny Hiep. Huynh, Johnnie. Huynh, Kim. Huynh, Lay. Huynh, Long. Huynh, Mack Van. Huynh, Mau Van. Huynh, Minh. Huynh, Minh Van.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Huynh, Nam Van. Huynh, Thai. Huynh, Tham Thi. Huynh, Thanh. Huynh, The V. Huynh, Tri. Huynh, Truc. Huynh, Tu. Huynh, Tu. Huynh, Tung Van. Huynh, Van X. Huynh, Viet Van. Huynh, Vuong Van. Hymel, Joseph Jr. Hymel, Michael D. Hymel, Nolan J Sr. Ingham, Herbert W. Inglis, Richard M. Ingraham, Joseph S. Ingraham, Joyce. Ipock, Billy. Ipock, William B. Ireland, Arthur Allen. Iver, George Jr. Jackson, Alfred M. Jackson, Carl John. Jackson, David. Jackson, Eugene O. Jackson, Glenn C Jr. Jackson, Glenn C Sr. Jackson, James Jerome. Jackson, John D. Jackson, John Elton Sr. Jackson, Levi. Jackson, Nancy L. Jackson, Robert W. Jackson, Shannon. Jackson, Shaun C. Jackson, Steven A. Jacob, Ronald R. Jacob, Warren J Jr. Jacobs, L Anthony. Jacobs, Lawrence F. Jarreau, Billy and Marilyn. Jarvis, James D. Jaye, Emma. Jeanfreau, Vincent R. Jefferies, William. Jemison, Timothy Michael Sr. Jennings, Jacob. Joffrion, Harold J Jr. Johnson, Albert F. Johnson, Ashley Lamar. Johnson, Bernard Jr. Johnson, Brent W. Johnson, Bruce Warem. Johnson, Carl S. Johnson, Carolyn. Johnson, Clyde Sr. Johnson, David G. Johnson, David Paul. Johnson, Gary Allen Sr. Johnson, George D. Johnson, Michael A. Johnson, Randy J. Johnson, Regenia. Johnson, Robert. Johnson, Ronald Ray Sr. Johnson, Steve. Johnson, Thomas Allen Jr. Johnston, Ronald. Joly, Nicholas J Jr.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Jones, Charles. Jones, Clinton. Jones, Daisy Mae. Jones, Jeffery E. Jones, Jerome N Sr. Jones, John W. Jones, Larry. Jones, Len. Jones, Michael G Sr. Jones, Paul E. Jones, Perry T Sr. Jones, Ralph William. Jones, Richard G Sr. Jones, Stephen K. Jones, Wayne. Joost, Donald F. Jordan, Dean. Jordan, Hubert William III (Bert). Jordan, Hurbert W Jr. Judalet, Ramon G. Judy, William Roger. Julian, Ida. Julian, John I Sr. Juneau, Anthony Sr. Juneau, Bruce. Juneau, Robert A Jr and Laura K. Jurjevich, Leander J. Kain, Jules B Sr. Kain, Martin A. Kalliainen, Dale. Kalliainen, Richard. Kang, Chamroeun. Kang, Sambo. Kap, Brenda. Keen, Robert Steven. Keenan, Robert M. Kellum, Kenneth Sr. Kellum, Larry Gray Sr. Kellum, Roxanne. Kelly, Roger B. Kelly, Thomas E. Kendrick, Chuck J. Kennair, Michael S. Kennedy, Dothan. Kenney, David Jr. Kenney, Robert W. Kent, Michael A. Keo, Bunly. Kerchner, Steve. Kern, Thurmond. Khin, Sochenda. Khui, Lep and Nga Ho. Kidd, Frank. Kiesel, Edward C and Lorraine T. Kiff, Hank J. Kiff, Melvin. Kiffe, Horace. Kim, Puch. Kimbrough, Carson. Kim-Tun, Soeun. King, Andy A. King, Donald Jr. King, James B. King, Thornell. King, Wesley. Kit, An. Kizer, Anthony J. Kleimann, Robert. Knapp, Alton P Jr. Knapp, Alton P Sr. Knapp, Ellis L Jr. Knapp, Melvin L.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Knapp, Theresa. Knecht, Frederick Jr. Knezek, Lee. Knight, George. Knight, Keith B. Knight, Robert E. Koch, Howard J. Kong, Seng. Konitz, Bobby. Koo, Herman. Koonce, Curtis S. Koonce, Howard N. Kopszywa, Mark L. Kopszywa, Stanley J. Kotulja, Stejepan. Kraemer, Bridget. Kraemer, Wilbert J. Kraemer, Wilbert Jr. Kramer, David. Krantz, Arthur Jr. Krantz, Lori. Kraver, C W. Kreger, Ronald A Sr. Kreger, Roy J Sr. Kreger, Ryan A. Krennerich, Raymond A. Kroke, Stephen E. Kruth, Frank D. Kuchler, Alphonse L III. Kuhn, Bruce A Sr. Kuhn, Gerard R Jr. Kuhn, Gerard R Sr. Kuhns, Deborah. LaBauve, Kerry. LaBauve, Sabrina. LaBauve, Terry. LaBiche, Todd A. LaBove, Carroll. LaBove, Frederick P. Lachica, Jacqueline. Lachico, Douglas. Lacobon, Tommy W Jr. Lacobon, Tony C. LaCoste, Broddie. LaCoste, Carl. LaCoste, Dennis E. LaCoste, Grayland J. LaCoste, Malcolm Jr. LaCoste, Melvin. LaCoste, Melvin W Jr. LaCoste, Ravin J Jr. LaCoste, Ravin Sr. Ladner, Clarence J III. Ladson, Earlene G. LaFont, Douglas A Sr. LaFont, Edna S. LaFont, Jackin. LaFont, Noces J Jr. LaFont, Weyland J Sr. LaFrance, Joseph T. Lagarde, Frank N. Lagarde, Gary Paul. Lagasse, Michael F. Lai, Hen K. Lai, Then. Lam, Cang Van. Lam, Cui. Lam, Dong Van. Lam, Hiep Tan. Lam, Lan Van. Lam, Lee Phenh. Lam, Phan.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Lam, Qui. Lam, Sochen. Lam, Tai. Lam, Tinh Huu. Lambas, Jessie J Sr. Lanclos, Paul. Landry, David A. Landry, Dennis J. Landry, Edward N Jr. Landry, George. Landry, George M. Landry, James F. Landry, Jude C. Landry, Robert E. Landry, Ronald J. Landry, Samuel J Jr. Landry, Tracy. Lane, Daniel E. Lapeyrouse, Lance M. Lapeyrouse, Rosalie. Lapeyrouse, Tillman Joseph. LaRive, James L Jr. LaRoche, Daniel S. Lasseigne, Betty. Lasseigne, Blake. Lasseigne, Floyd. Lasseigne, Frank. Lasseigne, Harris Jr. Lasseigne, Ivy Jr. Lasseigne, Jefferson. Lasseigne, Jefferson P Jr. Lasseigne, Johnny J. Lasseigne, Marlene. Lasseigne, Nolan J. Lasseigne, Trent. Lat, Chhiet. Latapie, Charlotte A. Latapie, Crystal. Latapie, Jerry. Latapie, Joey G. Latapie, Joseph. Latapie, Joseph F Sr. Latapie, Travis. Latiolais, Craig J. Latiolais, Joel. Lau, Ho Thanh. Laughlin, James G. Laughlin, James Mitchell. Laurent, Yvonne M. Lavergne, Roger. Lawdros, Terrance Jr. Layrisson, Michael A III. Le, Amanda. Le, An Van. Le, Ben. Le, Binh T. Le, Cheo Van. Le, Chinh Thanh. Le, Chinh Thanh and Yen Vo. Le, Cu Thi. Le, Dai M. Le, Dale. Le, David Rung. Le, Du M. Le, Duc V. Le, Duoc M. Le, Hien V. Le, Houston T. Le, Hung. Le, Jimmy. Le, Jimmy and Hoang. Le, Khoa.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Le, Kim. Le, Ky Van. Le, Lang Van. Le, Lily. Le, Lisa Tuyet Thi. Le, Loi. Le, Minh Van. Le, Muoi Van. Le, My. Le, My V. Le, Nam and Xhan-Minh Le. Le, Nam Van. Le, Nhieu T. Le, Nhut Hoang. Le, Nu Thi. Le, Phuc Van. Le, Que V. Le, Quy. Le, Robert. Le, Sam Van. Le, Sau V. Le, Son. Le, Son. Le, Son H. Le, Son Quoc. Le, Son Van. Le, Su. Le, Tam V. Le, Thanh Huong. Le, Tong Minh. Le, Tony. Le, Tracy Lan Chi. Le, Tuan Nhu. Le, Viet Hoang. Le, Vui. Leaf, Andrew Scott. Leary, Roland. LeBeauf, Thomas. LeBlanc, Donnie. LeBlanc, Edwin J. LeBlanc, Enoch P. LeBlanc, Gareth R III. LeBlanc, Gareth R Jr. LeBlanc, Gerald E. LeBlanc, Hubert C. LeBlanc, Jerald. LeBlanc, Jesse Jr. LeBlanc, Keenon Anthony. LeBlanc, Lanvin J. LeBlanc, Luke A. LeBlanc, Marty J. LeBlanc, Marty J Jr. LeBlanc, Mickel J. LeBlanc, Robert Patrick. LeBlanc, Scotty M. LeBlanc, Shelton. LeBlanc, Terry J. LeBoeuf, Brent J. LeBoeuf, Emery J. LeBoeuf, Joseph R. LeBoeuf, Tammy Y. LeBouef, Dale. LeBouef, Edward J. LeBouef, Ellis J Jr. LeBouef, Gillis. LeBouef, Jimmie. LeBouef, Leslie. LeBouef, Lindy J. LeBouef, Micheal J. LeBouef, Raymond. LeBouef, Tommy J. LeBouef, Wiley Sr.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			LeBourgeois, Stephen A. LeCompte, Alena. LeCompte, Aubrey J. LeCompte, Etha. LeCompte, Jesse C Jr. LeCompte, Jesse Jr. LeCompte, Jesse Sr. LeCompte, Lyle. LeCompte, Patricia F. LeCompte, Todd. LeCompte, Troy A Sr. Ledet, Brad. Ledet, Bryan. Ledet, Carlton. Ledet, Charles J. Ledet, Jack A. Ledet, Kenneth A. Ledet, Mark. Ledet, Maxine B. Ledet, Mervin. Ledet, Phillip John. Ledoux, Dennis. Ledwig, Joe J. Lee, Carl. Lee, James K. Lee, Marilyn. Lee, Otis M Jr. Lee, Raymond C. Lee, Robert E. Lee, Steven J. Leek, Mark A. LeGaux, Roy J Jr. Legendre, Kerry. Legendre, Paul. Leger, Andre. LeGros, Alex M. LeJeune, Philip Jr. LeJeune, Philip Sr. LeJeune, Ramona V. LeJeunee, Debbie. LeJuine, Eddie R. LeLand, Allston Bochet. Leland, Rutledge B III. Leland, Rutledge B Jr. LeLeaux, David. Leleux, Kevin J. Lemoine, Jeffery Jr. Leonard, Dan. Leonard, Dexter J Jr. Leonard, Micheal A. Lepine, Leroy L. Lesso, Rudy Jr. Lester, Shawn. Levron, Dale T. Levy, Patrick T. Lewis, Kenneth. Lewis, Mark Steven. Libersat, Anthony R. Libersat, Kim. Licatino, Daniel Jr. Lichenstein, Donald L. Lilley, Douglas P. Lim, Chhay. Lim, Koung. Lim, Tav Seng. Linden, Eric L. Liner, Claude J Jr. Liner, Harold. Liner, Jerry. Liner, Kevin. Liner, Michael B Sr. Liner, Morris T Jr.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Liner, Morris T Sr. Liner, Tandy M. Linh, Pham. Linwood, Dolby. Lirette, Alex J Sr. Lirette, Bobby and Sheri. Lirette, Chester Patrick. Lirette, Daniel J. Lirette, Dean J. Lirette, Delvin J Jr. Lirette, Delvin Jr. Lirette, Desaire J. Lirette, Eugis P Sr. Lirette, Guy A. Lirette, Jeannie. Lirette, Kern A. Lirette, Ron C. Lirette, Russell (Chico) Jr. Lirette, Shaun Patrick. Lirette, Terry J Sr. Little, William A. Little, William Boyd. Liv, Niem S. Livaudais, Ernest J. Liverman, Harry R. LoBue, Michael Anthony Sr. Locascio, Dustin. Lockhart, William T. Lodrigue, Jimmy A. Lodrigue, Kerry. Lombardo, Joseph P. Lombas, James A Jr. Lombas, Kim D. Londrie, Harley. Long, Cao Thanh. Long, Dinh. Long, Robert. Longo, Ronald S Jr. Longwater, Ryan Heath. Loomer, Rhonda. Lopez, Celestino. Lopez, Evelio. Lopez, Harry N. Lopez, Ron. Lopez, Scott. Lopez, Stephen R Jr. Lord, Michael E Sr. Loupe, George Jr. Loupe, Ted. Lovell, Billy. Lovell, Bobby Jason. Lovell, Bradford John. Lovell, Charles J Jr. Lovell, Clayton. Lovell, Douglas P. Lovell, Jacob G. Lovell, Lois. Lovell, Slade M. Luke, Bernadette C. Luke, David. Luke, Dustan. Luke, Henry. Luke, Jeremy Paul. Luke, Keith J. Luke, Patrick A. Luke, Patrick J. Luke, Paul Leroy. Luke, Rudolph J. Luke, Samantha. Luke, Sidney Jr. Luke, Terry Patrick Jr. Luke, Terry Patrick Sr.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Luke, Timothy. Luke, Wiltz J. Lund, Ora G. Luneau, Ferrell J. Luong, Kevin. Luong, Thu X. Luscy, Lydia. Luscy, Richard. Lutz, William A. Luu, Binh. Luu, Vinh. Luu, Vinh V. Ly, Bui. Ly, Hen. Ly, Hoc. Ly, Kelly D. Ly, Nu. Ly, Sa. Ly, Ven. Lyall, Rosalie. Lycett, James A. Lyons, Berton J. Lyons, Berton J Sr. Lyons, Jack. Lyons, Jerome M. Mackey, Marvin Sr. Mackie, Kevin L. Maggio, Wayne A. Magwood, Edwin Wayne. Mai, Danny V. Mai, Lang V. Mai, Tai. Mai, Trach Xuan. Maise, Rubin J. Maise, Todd. Majoue, Ernest J. Majoue, Nathan L. Malcombe, David. Mallett, Irvin Ray. Mallett, Jimmie. Mallett, Lawrence J. Mallett, Mervin B. Mallett, Rainbow. Mallett, Stephney. Malley, Ned F Jr. Mamolo, Charles H Sr. Mamolo, Romeo C Jr. Mamolo, Terry A. Mancera, Jesus. Manuel, Joseph R. Manuel, Shon. Mao, Chandarasy. Mao, Kim. Marcel, Michelle. Marchese, Joe Jr. Mareno, Ansley. Mareno, Brent J. Mareno, Kenneth L. Marie, Allen J. Marie, Marty. Marmande, Al. Marmande, Alidore. Marmande, Denise. Marquize, Heather. Marquize, Kip. Marris, Roy C Jr. Martin, Darren. Martin, Dean J. Martin, Dennis. Martin, Jody W. Martin, John F III. Martin, Michael A.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Martin, Nora S. Martin, Rod J. Martin, Roland J Jr. Martin, Russel J Sr. Martin, Sharon J. Martin, Tanna G. Martin, Wendy. Martinez, Carl R. Martinez, Henry. Martinez, Henry Joseph. Martinez, Lupe. Martinez, Michael. Martinez, Rene J. Mason, James F Jr. Mason, Johnnie W. Mason, Luther. Mason, Mary Lois. Mason, Percy D Jr. Mason, Walter. Matherne, Anthony. Matherne, Blakland Sr. Matherne, Bradley J. Matherne, Claude I Jr. Matherne, Clifford P. Matherne, Curlis J. Matherne, Forest J. Matherne, George J. Matherne, Glenn A. Matherne, Grace L. Matherne, James C. Matherne, James J Jr. Matherne, James J Sr. Matherne, Joey A. Matherne, Keith. Matherne, Larry Jr. Matherne, Louis M Sr. Matherne, Louis Michael. Matherne, Nelson. Matherne, Thomas G. Matherne, Thomas G Jr. Matherne, Thomas Jr. Matherne, Thomas M Sr. Matherne, Wesley J. Mathews, Patrick. Mathurne, Barry. Matte, Martin J Sr. Mauldin, Johnny. Mauldin, Mary. Mauldin, Shannon. Mavar, Mark D. Mayeux, Lonies A Jr. Mayeux, Roselyn P. Mayfield, Gary. Mayfield, Henry A Jr. Mayfield, James J III. Mayon, Allen J. Mayon, Wayne Sr. McAnespy, Henry. McAnespy, Louis. McCall, Marcus H. McCall, R Terry Sr. McCarthy, Carliss. McCarthy, Michael. McCauley, Byron Keith. McCauley, Katrina. McClantoc, Robert R and Debra. McClellan, Eugene Gardner. McCormick, Len. McCuiston, Denny Carlton. McDonald, Allan. McElroy, Harry J. McFarlain, Merlin J Jr.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			McGuinn, Dennis. McIntosh, James Richard. McIntyre, Michael D. McIver, John H Jr. McKendree, Roy. McKenzie, George B. McKinzie, Bobby E. McKoin, Robert. McKoin, Robert F Jr. McLendon, Jonathon S. McNab, Robert Jr. McQuaig, Don W. McQuaig, Oliver J. Medine, David P. Mehaffey, John P. Melancon, Brent K. Melancon, Neva. Melancon, Rickey. Melancon, Roland Jr. Melancon, Roland T Jr. Melancon, Sean P. Melancon, Terral J. Melancon, Timmy J. Melanson, Ozimea J III. Melerine, Angela. Melerine, Brandon T. Melerine, Claude A. Melerine, Claude A Jr. Melerine, Dean J. Melerine, Eric W Jr. Melerine, John D Sr. Melerine, Linda C. Melerine, Raymond Joseph. Melford, Daniel W Sr. Mello, Nelvin. Men, Sophin. Menendez, Wade E. Menesses, Dennis. Menesses, James H. Menesses, Jimmy. Menesses, Louis. Menge, Lionel A. Menge, Vincent J. Mercy, Dempsey. Merrick, Harold A. Merrick, Kevin Sr. Merritt, Darren Sr. Messer, Chase. Meyers, Otis J. Miarm, Soeum. Michel, Steven D. Middleton, Dan Sr. Migues, Henry. Migues, Kevin L Sr. Milam, Ricky. Miles, Ricky David. Miley, Donna J. Militello, Joseph. Miller, David W. Miller, Fletcher N. Miller, James A. Miller, Larry B. Miller, Mabry Allen Jr. Miller, Michael E. Miller, Michele K. Miller, Randy A. Miller, Rhonda E. Miller, Wayne. Millet, Leon B. Millington, Donnie. Millington, Ronnie. Millis, Moses.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Millis, Raeford. Millis, Timmie Lee. Mine, Derrick. Miner, Peter G. Minh, Kha. Minh, Phuc-Truong. Mitchell, Ricky Allen. Mitchell, Todd. Mitchum, Francis Craig. Mixon, G C. Mobley, Bryan A. Mobley, Jimmy Sr. Mobley, Robertson. Mock, Frank Sr. Mock, Frankie E Jr. Mock, Jesse R II. Mock, Terry Lyn. Molero, Louis F III. Molero, Louis Frank. Molinere, Al L. Molinere, Floyd. Molinere, Roland Jr. Molinere, Stacey. Moll, Angela. Moll, Jerry J Jr. Moll, Jonathan P. Moll, Julius J. Moll, Randall Jr. Mollere, Randall. Mones, Philip J Jr. Mones, Tino. Moody, Guy D. Moore, Carl Stephen. Moore, Curtis L. Moore, Kenneth. Moore, Richard. Moore, Willis. Morales, Anthony. Morales, Clinton A. Morales, Daniel Jr. Morales, Daniel Sr. Morales, David. Morales, Elwood J Jr. Morales, Eugene J Jr. Morales, Eugene J Sr. Morales, Kimberly. Morales, Leonard L. Morales, Phil J Jr. Morales, Raul. Moran, Scott. Moreau, Allen Joseph. Moreau, Berlin J Sr. Moreau, Daniel R. Moreau, Hubert J. Moreau, Mary. Moreau, Rickey J Sr. Morehead, Arthur B Jr. Moreno, Ansley. Morgan, Harold R. Morici, John. Morris, Herbert Eugene. Morris, Jesse A. Morris, Jesse A Sr. Morris, Preston. Morrison, Stephen D Jr. Morton, Robert A. Morvant, Keith M. Morvant, Patsy Lishman. Moschettieri, Chalam. Moseley, Kevin R. Motley, Michele. Mouille, William L.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Mouton, Ashton J. Moveront, Timothy. Mund, Mark. Murphy, Denis R. Muth, Gary J Sr. Myers, Joseph E Jr. Na, Tran Van. Naccio, Andrew. Nacio, Lance M. Nacio, Noel. Nacio, Philocles J Sr. Naquin, Alton J. Naquin, Andrew J Sr. Naquin, Antoine Jr. Naquin, Autry James. Naquin, Bobby J and Sheila. Naquin, Bobby Jr. Naquin, Christine. Naquin, Dean J. Naquin, Donna P. Naquin, Earl. Naquin, Earl L. Naquin, Freddie. Naquin, Gerald. Naquin, Henry. Naquin, Irvin J. Naquin, Jerry Joseph Jr. Naquin, Kenneth J Jr. Naquin, Kenneth J Sr. Naquin, Linda L. Naquin, Lionel A Jr. Naquin, Mark D Jr. Naquin, Marty J Sr. Naquin, Milton H IV. Naquin, Oliver A. Naquin, Robert. Naquin, Roy A. Naquin, Vernon. Navarre, Curtis J. Navero, Floyd G Jr. Neal, Craig A. Neal, Roy J Jr. Neely, Bobby H. Nehlig, Raymond E Sr. Neil, Dean. Neil, Jacob. Neil, Julius. Neil, Robert J Jr. Neil, Tommy Sr. Nelson, Billy J Sr. Nelson, Deborah. Nelson, Elisha W. Nelson, Ernest R. Nelson, Faye. Nelson, Fred H Sr. Nelson, Gordon Kent Sr. Nelson, Gordon W III. Nelson, Gordon W Jr. Nelson, John Andrew. Nelson, William Owen Jr. Nelton, Aaron J Jr. Nelton, Steven J. Nettleton, Cody. Newell, Ronald B. Newsome, Thomas E. Newton, Paul J. Nghiem, Billy. Ngo, Chuong Van. Ngo, Duc. Ngo, Hung V. Ngo, Liem Thanh. Ngo, Maxie.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Ngo, The T. Ngo, Truong Dinh. Ngo, Van Lo. Ngo, Vu Hoang. Ngoc, Lam Lam. Ngu,Thoi. Nguyen, Amy. Nguyen, An Hoang. Nguyen, Andy Dung. Nguyen, Andy T. Nguyen, Anh and Thanh D Tiet. Nguyen, Ba. Nguyen, Ba Van. Nguyen, Bac Van. Nguyen, Bao Q. Nguyen, Bay Van. Nguyen, Be. Nguyen, Be. Nguyen, Be. Nguyen, Be Em. Nguyen, Bich Thao. Nguyen, Bien V. Nguyen, Binh. Nguyen, Binh Cong. Nguyen, Binh V. Nguyen, Binh Van. Nguyen, Binh Van. Nguyen, Binh Van. Nguyen, Bui Van. Nguyen, Ca Em. Nguyen, Can. Nguyen, Can Van. Nguyen, Canh V. Nguyen, Charlie. Nguyen, Chien. Nguyen, Chien Van. Nguyen, Chin. Nguyen, Chinh Van. Nguyen, Christian. Nguyen, Chuc. Nguyen, Chung. Nguyen, Chung Van. Nguyen, Chuong Hoang. Nguyen, Chuong V. Nguyen, Chuyen. Nguyen, Coolly Dinh. Nguyen, Cuong. Nguyen, Dai. Nguyen, Dan T. Nguyen, Dan Van. Nguyen, Dan Van. Nguyen, Dang. Nguyen, Danny. Nguyen, David. Nguyen, Day Van. Nguyen, De Van. Nguyen, Den. Nguyen, Diem. Nguyen, Dien. Nguyen, Diep. Nguyen, Dinh. Nguyen, Dinh V. Nguyen, Dong T. Nguyen, Dong Thi. Nguyen, Dong X. Nguyen, Duc. Nguyen, Duc Van. Nguyen, Dung. Nguyen, Dung Anh and Xuan Duong. Nguyen, Dung Ngoc. Nguyen, Dung Van. Nguyen, Dung Van.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Nguyen, Duoc. Nguyen, Duong V. Nguyen, Duong Van. Nguyen, Duong Xuan. Nguyen, Francis N. Nguyen, Frank. Nguyen, Gary. Nguyen, Giang T. Nguyen, Giang Truong. Nguyen, Giau Van. Nguyen, Ha T. Nguyen, Ha Van. Nguyen, Hai Van. Nguyen, Hai Van. Nguyen, Han Van. Nguyen, Han Van. Nguyen, Hang. Nguyen, Hanh T. Nguyen, Hao Van. Nguyen, Harry H. Nguyen, Henri Hiep. Nguyen, Henry-Trang. Nguyen, Hien. Nguyen, Hien V. Nguyen, Hiep. Nguyen, Ho. Nguyen, Ho V. Nguyen, Hoa. Nguyen, Hoa. Nguyen, Hoa N. Nguyen, Hoa Van. Nguyen, Hoang. Nguyen, Hoang. Nguyen, Hoang T. Nguyen, Hoi. Nguyen, Hon Xuong. Nguyen, Huan. Nguyen, Hung. Nguyen, Hung. Nguyen, Hung. Nguyen, Hung M. Nguyen, Hung Manh. Nguyen, Hung Van. Nguyen, Hung-Joseph. Nguyen, Huu Nghia. Nguyen, Hy Don N. Nguyen, Jackie Tin. Nguyen, James. Nguyen, James N. Nguyen, Jefferson. Nguyen, Jennifer. Nguyen, Jimmy. Nguyen, Jimmy. Nguyen, Joachim. Nguyen, Joe. Nguyen, John R. Nguyen, John Van. Nguyen, Johnny. Nguyen, Joseph Minh. Nguyen, Kenny Hung Mong. Nguyen, Kevin. Nguyen, Khai. Nguyen, Khanh. Nguyen, Khanh and Viet Dinh. Nguyen, Khanh Q. Nguyen, Khiem. Nguyen, Kien Phan. Nguyen, Kim. Nguyen, Kim Mai. Nguyen, Kim Thoa. Nguyen, Kinh V. Nguyen, Lai.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Nguyen, Lai. Nguyen, Lai Tan. Nguyen, Lam. Nguyen, Lam Van. Nguyen, Lam Van. Nguyen, Lam Van. Nguyen, Lan. Nguyen, Lang. Nguyen, Lang. Nguyen, Lanh. Nguyen, Lap Van. Nguyen, Lap Van. Nguyen, Le. Nguyen, Lien and Hang Luong. Nguyen, Lien Thi. Nguyen, Linda Oan. Nguyen, Linh Thi. Nguyen, Linh Van. Nguyen, Lintt Danny. Nguyen, Lluu. Nguyen, Loc. Nguyen, Loi. Nguyen, Loi. Nguyen, Long Phi. Nguyen, Long T. Nguyen, Long Viet. Nguyen, Luom T. Nguyen, Mai Van. Nguyen, Man. Nguyen, Mao-Van. Nguyen, Mary. Nguyen, Mary. Nguyen, Melissa. Nguyen, Minh. Nguyen, Minh. Nguyen, Minh. Nguyen, Minh. Nguyen, Minh. Nguyen, Minh Ngoc. Nguyen, Minh Van. Nguyen, Moot. Nguyen, Mui Van. Nguyen, Mung T. Nguyen, Muoi. Nguyen, My Le Thi. Nguyen, My Tan. Nguyen, My V. Nguyen, Nam Van. Nguyen, Nam Van. Nguyen, Nam Van. Nguyen, Nam Van. Nguyen, Nancy. Nguyen, Nancy. Nguyen, Nghi. Nguyen, Nghi Q. Nguyen, Nghia. Nguyen, Nghiep. Nguyen, Ngoc Tim. Nguyen, Ngoc Van. Nguyen, Nguyet. Nguyen, Nhi. Nguyen, Nho Van. Nguyen, Nina. Nguyen, Nuong. Nguyen, Peter. Nguyen, Peter Thang. Nguyen, Peter V. Nguyen, Phe. Nguyen, Phong. Nguyen, Phong Ngoc. Nguyen, Phong T. Nguyen, Phong Xuan.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Nguyen, Phu Huu.
			Nguyen, Phuc.
			Nguyen, Phuoc H.
			Nguyen, Phuoc Van.
			Nguyen, Phuong.
			Nguyen, Phuong.
			Nguyen, Quang.
			Nguyen, Quang.
			Nguyen, Quang Dang.
			Nguyen, Quang Dinh.
			Nguyen, Quang Van.
			Nguyen, Quoc Van.
			Nguyen, Quyen Minh.
			Nguyen, Quyen T.
			Nguyen, Quyen-Van.
			Nguyen, Ran T.
			Nguyen, Randon.
			Nguyen, Richard.
			Nguyen, Richard Nghia.
			Nguyen, Rick Van.
			Nguyen, Ricky Tinh.
			Nguyen, Roe Van.
			Nguyen, Rose.
			Nguyen, Sam.
			Nguyen, Sandy Ha.
			Nguyen, Sang Van.
			Nguyen, Sau V.
			Nguyen, Si Ngoc.
			Nguyen, Son.
			Nguyen, Son Thanh.
			Nguyen, Son Van.
			Nguyen, Song V.
			Nguyen, Steve.
			Nguyen, Steve Q.
			Nguyen, Steven Giap.
			Nguyen, Sung.
			Nguyen, Tai.
			Nguyen, Tai The.
			Nguyen, Tai Thi.
			Nguyen, Tam.
			Nguyen, Tam Minh.
			Nguyen, Tam Thanh.
			Nguyen, Tam V.
			Nguyen, Tam Van.
			Nguyen, Tan.
			Nguyen, Ten Tan.
			Nguyen, Thach.
			Nguyen, Thang.
			Nguyen, Thanh.
			Nguyen, Thanh.
			Nguyen, Thanh.
			Nguyen, Thanh Phuc.
			Nguyen, Thanh V.
			Nguyen, Thanh Van.
			Nguyen, Thanh Van.
			Nguyen, Thanh Van.
			Nguyen, Thanh Van.
			Nguyen, Thao.
			Nguyen, Thi Bich Hang.
			Nguyen, Thiet.
			Nguyen, Thiet.
			Nguyen, Tho Duke.
			Nguyen, Thoa D.
			Nguyen, Thoa Thi.
			Nguyen, Thomas.
			Nguyen, Thu.
			Nguyen, Thu and Rose.
			Nguyen, Thu Duc.
			Nguyen, Thu Van.
			Nguyen, Thuan.
			Nguyen, Thuan.
			Nguyen, Thuong.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Nguyen, Thuong Van.
			Nguyen, Thuy.
			Nguyen, Thuyen.
			Nguyen, Thuyen.
			Nguyen, Tinh.
			Nguyen, Tinh Van.
			Nguyen, Toan.
			Nguyen, Toan Van.
			Nguyen, Tommy.
			Nguyen, Tony.
			Nguyen, Tony.
			Nguyen, Tony.
			Nguyen, Tony D.
			Nguyen, Tony Hong.
			Nguyen, Tony Si.
			Nguyen, Tra.
			Nguyen, Tra.
			Nguyen, Tracy T.
			Nguyen, Tri D.
			Nguyen, Trich Van.
			Nguyen, Trung Van.
			Nguyen, Tu Van.
			Nguyen, Tuan.
			Nguyen, Tuan A.
			Nguyen, Tuan H.
			Nguyen, Tuan Ngoc.
			Nguyen, Tuan Q.
			Nguyen, Tuan Van.
			Nguyen, Tung.
			Nguyen, Tuyen Duc.
			Nguyen, Tuyen Van.
			Nguyen, Ty and Ngoc Ngo.
			Nguyen, Van H.
			Nguyen, Van Loi.
			Nguyen, Vang Van.
			Nguyen, Viet.
			Nguyen, Viet.
			Nguyen, Viet V.
			Nguyen, Viet Van.
			Nguyen, Vinh Van.
			Nguyen, Vinh Van.
			Nguyen, Vinh Van.
			Nguyen, VT.
			Nguyen, Vu Minh.
			Nguyen, Vu T.
			Nguyen, Vu Xuan.
			Nguyen, Vui.
			Nguyen, Vuong V.
			Nguyen, Xuong Kim.
			Nhan, Tran Quoc.
			Nhon, Seri.
			Nichols, Steve Anna.
			Nicholson, Gary.
			Nixon, Leonard.
			Noble, Earl.
			Noland, Terrel W.
			Normand, Timothy.
			Norris, Candace P.
			Norris, John A.
			Norris, Kenneth L.
			Norris, Kevin J.
			Nowell, James E.
			Noy, Phen.
			Nunez, Conrad.
			Nunez, Jody.
			Nunez, Joseph Paul.
			Nunez, Randy.
			Nunez, Wade Joseph.
			Nyuyen, Toan.
			Oberling, Darryl.
			O'Blance, Adam.
			O'Brien, Gary S.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			O'Brien, Mark. O'Brien, Michele. Ogden, John M. Oglesby, Henry. Oglesby, Phyllis. O'Gwynn, Michael P Sr. Ohmer, Eva G. Ohmer, George J. Olander, Hazel. Olander, Rodney. Olander, Roland J. Olander, Russell J. Olander, Thomas. Olano, Kevin. Olano, Owen J. Olano, Shelby F. Olds, Malcolm D Jr. Olinde, Wilfred J Jr. Oliver, Charles. O'Neil, Carey. Oracoy, Brad R. Orage, Eugene. Orlando, Het. Oteri, Robert F. Oubre, Faron P. Oubre, Thomas W. Ourks, SokHoms K. Owens, Larry E. Owens, Sheppard. Owens, Timothy. Pacaccio, Thomas Jr. Padgett, Kenneth J. Palmer, Gay Ann P. Palmer, John W. Palmer, Mack. Palmisano, Daniel P. Palmisano, Dwayne Jr. Palmisano, Kim. Palmisano, Larry J. Palmisano, Leroy J. Palmisano, Robin G. Pam, Phuong Bui. Parfait, Antoine C Jr. Parfait, Jerry Jr. Parfait, John C. Parfait, Joshua K. Parfait, Mary F. Parfait, Mary S. Parfait, Olden G Jr. Parfait, Robert C Jr. Parfait, Robert C Sr. Parfait, Rodney. Parfait, Shane A. Parfait, Shelton J. Parfait, Timmy J. Parker, Clyde A. Parker, Franklin L. Parker, Paul A. Parker, Percy Todd. Parks, Daniel Duane. Parks, Ellery Doyle Jr. Parrett, Joseph D Jr. Parria, Danny. Parria, Gavin C Sr. Parria, Gillis F Jr. Parria, Gillis F Sr. Parria, Jerry D. Parria, Kip G. Parria, Lionel J Sr. Parria, Louis III. Parria, Louis J Sr. Parria, Louis Jr.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Parria, Michael. Parria, Ronald. Parria, Ross. Parria, Troy M. Parrish, Charles. Parrish, Walter L. Passmore, Penny. Pate, Shane. Paterbaugh, Richard. Patingo, Roger D. Paul, Robert Emmett. Payne, John Francis. Payne, Stuart. Peatross, David A. Pelas, James Curtis. Pelas, Jeffery. Pellegrin, Corey P. Pellegrin, Curlynn. Pellegrin, James A Jr. Pellegrin, Jordey. Pellegrin, Karl. Pellegrin, Karl J. Pellegrin, Randy. Pellegrin, Randy Sr. Pellegrin, Rodney J Sr. Pellegrin, Samuel. Pellegrin, Troy Sr. Peltier, Clyde. Peltier, Rodney J. Pena, Bartolo Jr. Pena, Israel. Pendarvis, Gracie. Pennison, Elaine. Pennison, Milton G. Pequeno, Julius. Percle, David P. Perez, Allen M. Perez, David J. Perez, David P. Perez, Derek. Perez, Edward Jr. Perez, Henry Jr. Perez, Joe B. Perez, Tilden A Jr. Perez, Warren A Jr. Perez, Warren A Sr. Perez, Wesley. Perrin, Dale. Perrin, David M. Perrin, Edward G Sr. Perrin, Errol Joseph Jr. Perrin, Jerry J. Perrin, Kenneth V. Perrin, Kevin. Perrin, Kline J Sr. Perrin, Kurt M. Perrin, Michael. Perrin, Michael A. Perrin, Murphy P. Perrin, Nelson C Jr. Perrin, Pershing J Jr. Perrin, Robert. Perrin, Tim J. Perrin, Tony. Persohn, William T. Peshoff, Kirk Lynn. Pete, Alfred F Jr. Pete, Alfred F Sr. Pfleeger, William A. Pham, An V. Pham, Anh My. Pham, Bob.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Pham, Cho. Pham, Cindy. Pham, David. Pham, Dung. Pham, Dung Phuoc. Pham, Dung Phuoc. Pham, Duong Van. Pham, Gai. Pham, Hai. Pham, Hai Hong. Pham, Hien. Pham, Hien C. Pham, Hiep. Pham, Hieu. Pham, Huan Van. Pham, Hung. Pham, Hung V. Pham, Hung V. Pham, Huynh. Pham, John. Pham, Johnny. Pham, Joseph S. Pham, Kannin. Pham, Nga T. Pham, Nhung T. Pham, Osmond. Pham, Paul P. Pham, Phong-Thanh. Pham, Phung. Pham, Quoc V. Pham, Steve Ban. Pham, Steve V. Pham, Thai Van. Pham, Thai Van. Pham, Thanh. Pham, Thanh. Pham, Thanh V. Pham, Thinh. Pham, Thinh V. Pham, Tommy V. Pham, Tran and Thu Quang. Pham, Ut Van. Phan, Anh Thi. Phan, Banh Van. Phan, Cong Van. Phan, Dan T. Phan, Hoang. Phan, Hung Thanh. Phan, Johnny. Phan, Lam. Phan, Luyen Van. Phan, Nam V. Phan, Thong. Phan, Tien V. Phan, Toan. Phan, Tu Van. Phat, Lam Mau. Phelps, John D. Phillips, Bruce A. Phillips, Danny D. Phillips, Gary. Phillips, Harry Louis. Phillips, James C Jr. Phillips, Kristrina W. Phipps, AW. Phonthaasa, Khaolop. Phorn, Phen. Pickett, Kathy. Picou, Calvin Jr. Picou, Gary M. Picou, Jennifer. Picou, Jerome J.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Picou, Jordan J. Picou, Randy John. Picou, Ricky Sr. Picou, Terry. Pierce, Aaron. Pierce, Dean. Pierce, Elwood. Pierce, Imogene. Pierce, Stanley. Pierce, Taffie Boone. Pierre, Ivy. Pierre, Joseph. Pierre, Joseph C Jr. Pierre, Paul J. Pierre, Ronald J. Pierron, Jake. Pierron, Patsy H. Pierron, Roger D. Pinell, Ernie A. Pinell, Harry J Jr. Pinell, Jody J. Pinell, Randall James. Pinnell, Richard J. Pinnell, Robert. Pitre, Benton J. Pitre, Carol. Pitre, Claude A Sr. Pitre, Elrod. Pitre, Emily B. Pitre, Glenn P. Pitre, Herbert. Pitre, Jeannie. Pitre, Leo P. Pitre, Robert Jr. Pitre, Robin. Pitre, Ryan P. Pitre, Ted J. Pittman, Roger. Pizani, Bonnie. Pizani, Craig. Pizani, Jane. Pizani, Terrill J. Pizani, Terry M. Pizani, Terry M Jr. Plaisance, Arthur E. Plaisance, Burgess. Plaisance, Darren. Plaisance, Dean J Sr. Plaisance, Dorothy B. Plaisance, Dwayne. Plaisance, Earl J Jr. Plaisance, Errance H. Plaisance, Evans P. Plaisance, Eves A III. Plaisance, Gideons. Plaisance, Gillis S. Plaisance, Henry A Jr. Plaisance, Jacob. Plaisance, Jimmie J. Plaisance, Joyce. Plaisance, Keith. Plaisance, Ken G. Plaisance, Lawrence J. Plaisance, Lucien Jr. Plaisance, Peter A Sr. Plaisance, Peter Jr. Plaisance, Richard J. Plaisance, Russel P. Plaisance, Russell P Sr. Plaisance, Thomas. Plaisance, Thomas J. Plaisance, Wayne P.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Plaisance, Whitney III. Plork, Phan. Poche, Glenn J Jr. Poche, Glenn J Sr. Pockrus, Gerald. Poiencot, Russell Jr. Poillion, Charles A. Polito, Gerald. Polkey, Gary J. Polkey, Richard R Jr. Polkey, Ronald. Polkey, Shawn Michael. Pollet, Lionel J Sr. Pomgoria, Mario. Ponce, Ben. Ponce, Lewis B. Poon, Raymond. Pope, Robert. Popham, Winford A. Poppell, David M. Porche, Ricky J. Portier, Bobby. Portier, Chad. Portier, Corinne L. Portier, Penelope J. Portier, Robbie. Portier, Russel A Sr. Portier, Russell. Potter, Hubert Edward Jr. Potter, Robert D. Potter, Robert J. Pounds, Terry Wayne. Powers, Clyde T. Prejean, Dennis J. Price, Carl. Price, Curtis. Price, Edwin J. Price, Franklin J. Price, George J Sr. Price, Norris J Sr. Price, Steve J Jr. Price, Timmy T. Price, Wade J. Price, Warren J. Prihoda, Steve. Primeaux, Scott. Pritchard, Dixie J. Pritchard, James Ross Jr. Prosperie, Claude J Jr. Prosperie, Myron. Prout, Rollen. Prout, Sharonski K. Prum, Thou. Pugh, Charles D Jr. Pugh, Charles Sr. Pugh, Cody. Pugh, Deanna. Pugh, Donald. Pugh, Nickolas. Punch, Alvin Jr. Punch, Donald J. Punch, Todd M. Punch, Travis J. Purata, Maria. Purse, Emil. Purvis, George. Quach, Duc. Quach, James D. Quach, Joe. Quach, Si Tan. Quinn, Dora M. Racca, Charles.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Racine, Sylvan P Jr. Radulic, Igor. Ragas, Albert G. Ragas, Gene. Ragas, John D. Ragas, Jonathan. Ragas, Richard A. Ragas, Ronda S. Ralph, Lester B. Ramirez, Alfred J Jr. Randazzo, John A Jr. Randazzo, Rick A. Rando, Stanley D. Ranko, Ellis Gerald. Rapp, Dwayne. Rapp, Leroy and Sedonia. Rawlings, John H Sr. Rawlings, Ralph E. Rawls, Norman E. Ray, Leo. Ray, William C Jr. Raynor, Steven Earl. Readenour, Kelty O. Reagan, Roy. Reason, Patrick W. Reaux, Paul S Sr. Reaves, Craig A. Reaves, Laten. Rebert, Paul J Sr. Rebert, Steve M Jr. Rebstock, Charles. Recter, Lance Jr. Rector, Warren L. Redden, Yvonne. Regnier, Leoncea B. Remondet, Garland Jr. Renard, Lanny. Reno, Edward. Reno, George C. Reno, George H. Reno, George T. Reno, Harry. Revell, Ben David. Reyes, Carlton. Reyes, Dwight D Sr. Reynon, Marcello Jr. Rhodes, Randolph N. Rhoto, Christopher L. Ribardi, Frank A. Rich, Wanda Heafner. Richard, Bruce J. Richard, David L. Richard, Edgar J. Richard, James Ray. Richard, Melissa. Richard, Randall K. Richardson, James T. Richert, Daniel E. Richo, Earl Sr. Richoux, Dudley Donald Jr. Richoux, Irvin J Jr. Richoux, Judy. Richoux, Larry. Richoux, Mary A. Riego, Raymond A. Riffle, Josiah B. Rigaud, Randall Ryan. Riggs, Jeffrey B. Riley, Jackie Sr. Riley, Raymond. Rinkus, Anthony J III. Rios, Amado.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Ripp, Norris M. Robbins, Tony. Robert, Dan S. Roberts, Michael A. Robertson, Kevin. Robeson, Richard S Jr. Robichaux, Craig J. Robin, Alvin G. Robin, Cary Joseph. Robin, Charles R III. Robin, Danny J. Robin, Donald. Robin, Floyd A. Robin, Kenneth J Sr. Robin, Ricky R. Robinson, Johnson P III. Robinson, Walter. Roccaforte, Clay. Rodi, Dominick R. Rodi, Rhonda. Rodrigue, Brent J. Rodrigue, Carrol Sr. Rodrigue, Glenn. Rodrigue, Lerlene. Rodrigue, Reggie Sr. Rodrigue, Sonya. Rodrigue, Wayne. Rodriguez, Barry. Rodriguez, Charles V Sr. Rodriguez, Gregory. Rodriguez, Jesus. Rodriguez, Joseph C Jr. Roeum, Orn. Rogers, Barry David. Rogers, Chad. Rogers, Chad M. Rogers, Kevin J. Rogers, Nathan J. Rojas, Carlton J Sr. Rojas, Curtis Sr. Rojas, Dennis J Jr. Rojas, Dennis J Sr. Rojas, Gordon V. Rojas, Kerry D. Rojas, Kerry D Jr. Rojas, Randy J Sr. Rojas, Raymond J Jr. Roland, Brad. Roland, Mathias C. Roland, Vincent. Rollins, Theresa. Rollo, Wayne A. Rome, Victor J IV. Romero, D H. Romero, Kardel J. Romero, Norman. Romero, Philip J. Ronquille, Glenn. Ronquille, Norman C. Ronquillo, Earl. Ronquillo, Richard J. Ronquillo, Timothy. Roseburrough, Charles R Jr. Ross, Dorothy. Ross, Edward Danny Jr. Ross, Leo L. Ross, Robert A. Roth, Joseph F Jr. Roth, Joseph M Jr. Rotolo, Carolyn. Rotolo, Feliz. Rouse, Jimmy.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Roussel, Michael D Jr. Roy, Henry Lee Jr. Rudolph, Chad A. Ruiz, Donald W. Ruiz, James L. Ruiz, Paul E. Ruiz, Paul R. Russell, Bentley R. Russell, Casey. Russell, Daniel. Russell, James III. Russell, Julie Ann. Russell, Michael J. Russell, Nicholas M. Russell, Paul. Rustick, Kenneth. Ruttley, Adrian K. Ruttley, Ernest T Jr. Ruttley, JT. Ryan, James C Sr. Rybiski, Rhebb R. Ryder, Luther V. Sadler, Stewart. Sagnes, Everett. Saha, Amanda K. Saling, Don M. Saltalamacchia, Preston J. Saltalamacchia, Sue A. Salvato, Lawrence Jr. Samanie, Caroll J. Samanie, Frank J. Samsome, Don. Sanamo, Troy P. Sanchez, Augustine. Sanchez, Jeffery A. Sanchez, Juan. Sanchez, Robert A. Sanders, William Shannon. Sandras, R J. Sandras, R J Jr. Sandrock, Roy R III. Santini, Lindberg W Jr. Santiny, James. Santiny, Patrick. Sapia, Carroll J Jr. Sapia, Eddie J Jr. Sapia, Willard. Saturday, Michael Rance. Sauce, Carlton Joseph. Sauce, Joseph C Jr. Saucier, Houston J. Sauls, Russell. Savage, Malcolm H. Savant, Raymond. Savoie, Allen. Savoie, Brent T. Savoie, James. Savoie, Merlin F Jr. Savoie, Reginald M II. Sawyer, Gerald. Sawyer, Rodney. Scarabin, Clifford. Scarabin, Michael J. Schaffer, Kelly. Schaubhut, Curry A. Schellinger, Lester B Jr. Schexnaydre, Michael. Schirmer, Robert Jr. Schjott, Joseph J Sr. Schlindwein, Henry. Schmit, Paul A Jr. Schmit, Paul A Sr.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Schmit, Victor J Jr. Schouest, Ellis J III. Schouest, Ellis Jr. Schouest, Juston. Schouest, Mark. Schouest, Noel. Schrimpf, Robert H Jr. Schultz, Troy A. Schwartz, Sidney. Scott, Aaron J. Scott, Audie B. Scott, James E III. Scott, Milford P. Scott, Paul. Seabrook, Terry G. Seal, Charles T. Seal, Joseph G. Seaman, Garry. Seaman, Greg. Seaman, Ollie L Jr. Seaman, Ollie L Sr. Seang, Meng. Sehon, Robert Craig. Sekul, Morris G. Sekul, S George. Sellers, Isaac Charles. Seng, Sophan. Serigne, Adam R. Serigne, Elizabeth. Serigne, James J III. Serigne, Kimmie J. Serigne, Lisa M. Serigne, Neil. Serigne, O'Neil N. Serigne, Richard J Sr. Serigne, Rickey N. Serigne, Ronald Raymond. Serigne, Ronald Roch. Serigne, Ross. Serigny, Gail. Serigny, Wayne A. Serpas, Lenny Jr. Sessions, William O III. Sessions, William O Jr. Sevel, Michael D. Sevin, Carl Anthony. Sevin, Earline. Sevin, Janell A. Sevin, Joey. Sevin, Nac J. Sevin, O'Neil and Symantha. Sevin, Phillip T. Sevin, Shane. Sevin, Shane Anthony. Sevin, Stanley J. Sevin, Willis. Seymour, Janet A. Shackelford, David M. Shaffer, Curtis E. Shaffer, Glynnon D. Shay, Daniel A. Shilling, Jason. Shilling, L E. Shugars, Robert L. Shutt, Randy. Sifuentes, Esteban. Sifuentes, Fernando. Silver, Curtis A Jr. Simon, Curnis. Simon, John. Simon, Leo. Simpson, Mark.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Sims, Donald L. Sims, Mike. Singley, Charlie Sr. Singley, Glenn. Singley, Robert Joseph. Sirgo, Jace. Sisung, Walter. Sisung, Walter Jr. Skinner, Gary M Sr. Skinner, Richard. Skipper, Malcolm W. Skrmetta, Martin J. Smelker, Brian H. Smith, Brian. Smith, Carl R Jr. Smith, Clark W. Smith, Danny. Smith, Danny M Jr. Smith, Donna. Smith, Elmer T Jr. Smith, Glenda F. Smith, James E. Smith, Margie T. Smith, Mark A. Smith, Nancy F. Smith, Raymond C Sr. Smith, Tim. Smith, Walter M Jr. Smith, William T. Smithwick, Ted Wayne. Smoak, Bill. Smoak, William W III. Snell, Erick. Snodgrass, Sam. Soeung, Phat. Soileau, John C Sr. Sok, Kheng. Sok, Montha. Sok, Nhip. Solet, Darren. Solet, Donald M. Solet, Joseph R. Solet, Raymond J. Solorzano, Marilyn. Son, Kim. Son, Sam Nang. Son, Samay. Son, Thuong Cong. Soprano, Daniel. Sork, William. Sou, Mang. Soudelier, Louis Jr. Soudelier, Shannon. Sour, Yem Kim. Southerland, Robert. Speir, Barbara Kay. Spell, Jeffrey B. Spell, Mark A. Spellmeyer, Joel F Sr. Spencer, Casey. Spiers, Donald A. Sprinkle, Avery M. Sprinkle, Emery Shelton Jr. Sprinkle, Joseph Warren. Squarsich, Kenneth J. Sreiy, Siphan. St Amant, Dana A. St Ann, Mr and Mrs Jerome K. St Pierre, Darren. St Pierre, Scott A. Staves, Patrick. Stechmann, Chad.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Stechmann, Karl J. Stechmann, Todd. Steele, Arnold D Jr. Steele, Henry H III. Steen, Carl L. Steen, James D. Steen, Kathy G. Stein, Norris J Jr. Stelly, Adlar. Stelly, Carl A. Stelly, Chad P. Stelly, Delores. Stelly, Sandrus J Sr. Stelly, Sandrus Jr. Stelly, Toby J. Stelly, Veronica G. Stelly, Warren. Stephenson, Louis. Stevens, Alvin. Stevens, Curtis D. Stevens, Donald. Stevens, Glenda. Stewart, Chester Jr. Stewart, Derald. Stewart, Derek. Stewart, Fred. Stewart, Jason F. Stewart, Ronald G. Stewart, William C. Stiffler, Thanh. Stipelcovich, Lawrence L. Stipelcovich, Todd J. Stockfett, Brenda. Stokes, Todd. Stone-Rinkus, Pamela. Strader, Steven R. Strickland, Kenneth. Strickland, Rita G. Stuart, James Vernon. Stutes, Rex E. Sulak, Billy W. Sun, Hong Sreng. Surmik, Donald D. Swindell, Keith M. Sylve, Dennis A. Sylve, James L. Sylve, Nathan. Sylve, Scott. Sylvesr, Paul A. Ta, Ba Van. Ta, Chris. Tabb, Calvin. Taliancich, Andrew. Taliancich, Ivan. Taliancich, Joseph M. Taliancich, Srecka. Tan, Ho Dung. Tan, Hung. Tan, Lan T. Tan, Ngo The. Tang, Thanh. Tanner, Robert Charles. Taravella, Raymond. Tassin, Alton J. Tassin, Keith P. Tate, Archie P. Tate, Terrell. Tauzier, Kevin M. Taylor, Doyle L. Taylor, Herman R. Taylor, Herman R Jr. Taylor, J P Jr.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Taylor, John C. Taylor, Leander J Sr. Taylor, Leo Jr. Taylor, Lewis. Taylor, Nathan L. Taylor, Robert L. Taylor, Robert M. Teap, Phal. Tek, Heng. Templat, Paul. Terluin, John L III. Terrebonne, Adrein Scott. Terrebonne, Alphonse J. Terrebonne, Alton S Jr. Terrebonne, Alton S Sr. Terrebonne, Carol. Terrebonne, Carroll. Terrebonne, Chad. Terrebonne, Chad Sr. Terrebonne, Daniel J. Terrebonne, Donavon J. Terrebonne, Gary J Sr. Terrebonne, Jimmy Jr. Terrebonne, Jimmy Sr. Terrebonne, Kline A. Terrebonne, Lanny. Terrebonne, Larry F Jr. Terrebonne, Scott. Terrebonne, Steven. Terrebonne, Steven. Terrebonne, Toby J. Terrel, Chad J Sr. Terrell, C Todd. Terrio, Brandon James. Terrio, Harvey J Jr. Terry, Eloise P. Tesvich, Kuzma D. Thac, Dang Van. Thach, Phuong. Thai, Huynh Tan. Thai, Paul. Thai, Thomas. Thanh, Thien. Tharpe, Jack. Theriot, Anthony. Theriot, Carroll A Jr. Theriot, Clay J Jr. Theriot, Craig A. Theriot, Dean P. Theriot, Donnie. Theriot, Jeffery C. Theriot, Larry J. Theriot, Lynn. Theriot, Mark A. Theriot, Roland P Jr. Theriot, Wanda J. Thibodaux, Jared. Thibodeaux, Bart James. Thibodeaux, Brian A. Thibodeaux, Brian M. Thibodeaux, Calvin A Jr. Thibodeaux, Fay F. Thibodeaux, Glenn P. Thibodeaux, Jeffrey. Thibodeaux, Jonathan. Thibodeaux, Josephine. Thibodeaux, Keith. Thibodeaux, Tony J. Thibodeaux, Warren J. Thidobaux, James V Sr. Thiet, Tran. Thomas, Alvin.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Thomas, Brent. Thomas, Dally S. Thomas, Janie G. Thomas, John Richard. Thomas, Kenneth Ward. Thomas, Monica P. Thomas, Ralph L Jr. Thomas, Ralph Lee Jr. Thomas, Randall. Thomas, Robert W. Thomas, Willard N Jr. Thomassie, Gerard. Thomassie, Nathan A. Thomassie, Philip A. Thomassie, Ronald J. Thomassie, Tracy Joseph. Thompson, Bobbie. Thompson, David W. Thompson, Edwin A. Thompson, George. Thompson, James D Jr. Thompson, James Jr. Thompson, John E. Thompson, John R. Thompson, Randall. Thompson, Sammy. Thompson, Shawn. Thong, R. Thonn, John J Jr. Thonn, Victor J. Thorpe, Robert Lee Jr. Thurman, Charles E. Tiet, Thanh Duc. Tilghman, Gene E. Tillett, Billy Carl. Tillman, Lewis A Jr. Tillman, Timothy P and Yvonne M. Tillotson, Pat. Tinney, Mark A. Tisdale, Georgia W. Tiser, Oscar. Tiser, Thomas C Jr. Tiser, Thomas C Sr. To, Cang Van. To, Du Van. Todd, Fred Noel. Todd, Patricia J. Todd, Rebecca G. Todd, Robert C and Patricia J. Todd, Vonnie Frank Jr. Tompkins, Gerald Paul II. Toney, George Jr. Tong, Hai V. Tony, Linh C. Toomer, Christina Abbott. Toomer, Christy. Toomer, Frank G Jr. Toomer, Jeffrey E. Toomer, Kenneth. Toomer, Lamar K. Toomer, Larry Curtis and Tina. Toomer, William Kemp. Torrible, David P. Torrible, Jason. Touchard, Anthony H. Touchard, John B Jr. Touchard, Paul V Jr. Touchet, Eldridge III. Touchet, Eldridge Jr. Toups, Anthony G. Toups, Bryan. Toups, Jeff.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Toups, Jimmie J. Toups, Kim. Toups, Manuel. Toups, Ted. Toups, Tommy. Toureau, James. Tower, H Melvin. Townsend, Harmon Lynn. Townsend, Marion Brooks. Tra, Hop T. Trabeau, James D. Trahan, Allen A Jr. Trahan, Alvin Jr. Trahan, Druby. Trahan, Dudley. Trahan, Elie J. Trahan, Eric J. Trahan, James. Trahan, Karen C. Trahan, Lynn P Sr. Trahan, Ricky. Trahan, Ronald J. Trahan, Tracey L. Trahan, Wayne Paul. Tran, Allen Hai. Tran, Andana. Tran, Anh. Tran, Anh. Tran, Anh N. Tran, Bay V. Tran, Bay Van. Tran, Binh. Tran, Binh Van. Tran, Ca Van. Tran, Cam Van. Tran, Chau V. Tran, Chau Van. Tran, Chau Van. Tran, Chi T. Tran, Christina Phuong. Tran, Chu V. Tran, Cuong. Tran, Cuong. Tran, Danny Duc. Tran, Den. Tran, Dien. Tran, Dinh M. Tran, Dinh Q. Tran, Doan. Tran, Dung Van. Tran, Duoc. Tran, Duoc. Tran, Duong. Tran, Eric. Tran, Francis. Tran, Francis. Tran, Giang. Tran, Giao. Tran, Ha Mike. Tran, Hai. Tran, Hien H. Tran, Hiep Phuoc. Tran, Hieu. Tran, Hoa. Tran, Hoa. Tran, Hue T. Tran, Huey. Tran, Hung. Tran, Hung. Tran, Hung. Tran, Hung P. Tran, Hung Van.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Tran, Hung Van. Tran, Hung Viet. Tran, James N. Tran, John. Tran, Johnny Dinh. Tran, Joseph. Tran, Joseph T. Tran, Khan Van. Tran, Khanh. Tran, Kim. Tran, Kim Chi Thi. Tran, Lan Tina. Tran, Le and Phat Le. Tran, Leo Van. Tran, Loan. Tran, Long. Tran, Long Van. Tran, Luu Van. Tran, Ly. Tran, Ly Van. Tran, Mai Thi. Tran, Mary. Tran, Miel Van. Tran, Mien. Tran, Mike. Tran, Mike Dai. Tran, Minh Huu. Tran, Muoi. Tran, My T. Tran, Nam Van. Tran, Nang Van. Tran, Nghia and T Le Banh. Tran, Ngoc. Tran, Nhanh Van. Tran, Nhieu T. Tran, Nhieu Van. Tran, Nho. Tran, Peter. Tran, Phu Van. Tran, Phuc D. Tran, Phuc V. Tran, Phung. Tran, Quan Van. Tran, Quang Quang. Tran, Quang T. Tran, Quang Van. Tran, Qui V. Tran, Quy Van. Tran, Ran Van. Tran, Sarah T. Tran, Sau. Tran, Scotty. Tran, Son. Tran, Son Van. Tran, Steven Tuan. Tran, Tam. Tran, Te Van. Tran, Than. Tran, Thang Van. Tran, Thanh. Tran, Thanh. Tran, Thanh Van. Tran, Theresa. Tran, Thi. Tran, Thich Van. Tran, Thien. Tran, Thien Van. Tran, Thiet. Tran, Tommy. Tran, Tony. Tran, Tri. Tran, Trinh.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Tran, Trung. Tran, Trung Van. Tran, Tu. Tran, Tuan. Tran, Tuan. Tran, Tuan Minh. Tran, Tuong Van. Tran, Tuyet Thi. Tran, Van T. Tran, Victor. Tran, Vinh. Tran, Vinh Q. Tran, Vinh Q. Tran, Vui Kim. Trang, Tan. Trapp, Tommy. Treadaway, Michael. Tregle, Curtis. Treloar, William Paul. Treuil, Gary J. Trevino, Manuel. Treybig, E H ''Buddy'' Jr. Triche, Donald G. Trieu, Hiep and Jackie. Trieu, Hung Hoa. Trieu, Jasmine and Ly. Trieu, Lorie and Tam. Trieu, Tam. Trinh, Christopher B. Trinh, Philip P. Trosclair, Clark K. Trosclair, Clark P. Trosclair, Eugene P. Trosclair, James J. Trosclair, Jerome. Trosclair, Joseph. Trosclair, Lori. Trosclair, Louis V. Trosclair, Patricia. Trosclair, Randy. Trosclair, Ricky. Trosclair, Wallace Sr. Truong, Andre. Truong, Andre V. Truong, Be Van. Truong, Benjamin. Truong, Dac. Truong, Huan. Truong, Kim. Truong, Nhut Van. Truong, Steve. Truong, Tham T. Truong, Thanh Minh. Truong, Them Van. Truong, Thom. Truong, Timmy. Trutt, George W Sr. Trutt, Wanda. Turlich, Mervin A. Turner, Calvin L. Tyre, John. Upton, Terry R. Valentino, J G Jr. Valentino, James. Vallot, Christopher A. Vallot, Nancy H. Valure, Hugh P. Van Alsburg, Charles. Van Gordstnoven, Jean J. Van Nguyen, Irving. Van, Than. Van, Vui.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Vanacor, Kathy D. Vanacor, Malcolm J Sr. Vanicor, Bobbie. VanMeter, Matthew T. VanMeter, William Earl. Varney, Randy L. Vath, Raymond S. Veasel, William E III. Vegas, Brien J. Vegas, Percy J. Vegas, Terry J. Vegas, Terry J Jr. Vegas, Terry Jr. Vela, Peter. Verdin, Aaron. Verdin, Av. Verdin, Bradley J. Verdin, Brent A. Verdin, Charles A. Verdin, Charles E. Verdin, Coy P. Verdin, Curtis A Jr. Verdin, Delphine. Verdin, Diana A. Verdin, Ebro W. Verdin, Eric P. Verdin, Ernest Joseph Sr. Verdin, Jeff C. Verdin, Jeffrey A. Verdin, Jessie J. Verdin, John P. Verdin, Joseph. Verdin, Joseph A Jr. Verdin, Joseph Cleveland. Verdin, Joseph D Jr. Verdin, Joseph S. Verdin, Joseph W Jr. Verdin, Justilien G. Verdin, Matthew W Sr. Verdin, Michel A. Verdin, Paul E. Verdin, Perry Anthony. Verdin, Rodney. Verdin, Rodney P. Verdin, Rodney P. Verdin, Skylar. Verdin, Timmy J. Verdin, Toby. Verdin, Tommy P. Verdin, Tony J. Verdin, Troy. Verdin, Vincent. Verdin, Viness Jr. Verdin, Wallace P. Verdin, Webb A Sr. Verdin, Wesley D Sr. Verdine, Jimmy R. Vermeulen, Joseph Thomas. Verret, Darren L. Verret, Donald J. Verret, Ernest J Sr. Verret, James A. Verret, Jean E. Verret, Jimmy J Sr. Verret, Johnny R. Verret, Joseph L. Verret, Paul L. Verret, Preston. Verret, Quincy. Verret, Ronald Paul Sr. Versaggi, Joseph A. Versaggi, Salvatore J.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Vicknair, Brent J Sr. Vicknair, Duane P. Vicknair, Henry Dale. Vicknair, Ricky A. Vidrine, Bill and Kathi. Vidrine, Corey. Vidrine, Richard. Vila, William F. Villers, Joseph A. Vincent, Gage Tyler. Vincent, Gene. Vincent, Gene B. Vincent, Robert N. Vise, Charles E III. Vizier, Barry A. Vizier, Christopher. Vizier, Clovis J III. Vizier, Douglas M. Vizier, Tommie Jr. Vo, Anh M. Vo, Chin Van. Vo, Dam. Vo, Dan M. Vo, Dany. Vo, Day V. Vo, Duong V. Vo, Dustin. Vo, Hai Van. Vo, Hanh Xuan. Vo, Hien Van. Vo, Hoang The. Vo, Hong. Vo, Hung Thanh. Vo, Huy K. Vo, Johnny. Vo, Kent. Vo, Lien Van. Vo, Man. Vo, Mark Van. Vo, Minh Hung. Vo, Minh Ngoc. Vo, Minh Ray. Vo, Mong V. Vo, My Dung Thi. Vo, My Lynn. Vo, Nga. Vo, Nhon Tai. Vo, Nhu Thanh. Vo, Quang Minh. Vo, Sang M. Vo, Sanh M. Vo, Song V. Vo, Tan Thanh. Vo, Tan Thanh. Vo, Thanh Van. Vo, Thao. Vo, Thuan Van. Vo, Tien Van. Vo, Tom. Vo, Tong Ba. Vo, Trao Van. Vo, Truong. Vo, Van Van. Vo, Vi Viet. Vodopija, Benjamin S. Vogt, James L. Voisin, Eddie James. Voisin, Joyce. Voison, Jamie. Von Harten, Harold L. Vona, Michael A. Vongrith, Richard.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Vossler, Kirk. Vu, Hung. Vu, John H. Vu, Khanh. Vu, Khoi Van. Vu, Quan Quoc. Vu, Ruyen Viet. Vu, Sac. Vu, Sean. Vu, Tam. Vu, Thiem Ngoc. Vu, Thuy. Vu, Tom. Vu, Tu Viet. Vu, Tuyen Jack. Vu, Tuyen Viet. Wade, Calvin J Jr. Wade, Gerard. Waguespack, David M Sr. Waguespack, Randy P II. Wainwright, Vernon. Walker, Jerry. Walker, Rogers H. Wallace, Dennis. Wallace, Edward. Wallace, John A. Wallace, John K. Wallace, Trevis L. Waller, Jack Jr. Waller, John M. Waller, Mike. Wallis, Craig A. Wallis, Keith. Walters, Samuel G. Walton, Marion M. Wannage, Edward Joseph. Wannage, Fred Jr. Wannage, Frederick W Sr. Ward, Clarence Jr. Ward, Olan B. Ward, Walter M. Washington, Clifford. Washington, John Emile III. Washington, Kevin. Washington, Louis N. Wattigney, Cecil K Jr. Wattigney, Michael. Watts, Brandon A. Watts, Warren. Webb, Bobby. Webb, Bobby N. Webb, Josie M. Webre, Donald. Webre, Dudley A. Webster, Harold. Weeks, Don Franklin. Weems, Laddie E. Weinstein, Barry C. Weiskopf, Rodney. Weiskopf, Rodney Sr. Weiskopf, Todd. Welch, Amos J. Wells, Douglas E. Wells, Stephen Ray. Wendling, Steven W. Wescovich, Charles W. Wescovich, Wesley Darryl. Whatley, William J. White, Allen Sr. White, Charles. White, Charles Fulton. White, David L.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			White, Gary Farrell. White, James Hugh. White, Perry J. White, Raymond. White, Robert Sr. Wicher, John. Wiggins, Chad M Sr. Wiggins, Ernest. Wiggins, Harry L. Wiggins, Kenneth A. Wiggins, Matthew. Wilbur, Gerald Anthony. Wilcox, Robert. Wiles, Alfred Adam. Wiles, Glen Gilbert. Wiles, Sonny Joel Sr. Wilkerson, Gene Dillard and Judith. Wilkinson, William Riley. Williams, Allen Jr. Williams, Andrew. Williams, B Dean. Williams, Clyde L. Williams, Dale A. Williams, Emmett J. Williams, Herman J Jr. Williams, J T. Williams, John A. Williams, Johnny Paul. Williams, Joseph H. Williams, Kirk. Williams, Leopold A. Williams, Mark A. Williams, Mary Ann C. Williams, Melissa A. Williams, Nina. Williams, Oliver Kent. Williams, Parish. Williams, Roberto. Williams, Ronnie. Williams, Scott A. Williams, Steven. Williams, Thomas D. Williamson, Richard L Sr. Willyard, Derek C. Willyard, Donald R. Wilson, Alward. Wilson, Hosea. Wilson, Joe R. Wilson, Jonathan. Wilson, Katherine. Wiltz, Allen. Wing, Melvin. Wiseman, Allen. Wiseman, Clarence J Jr. Wiseman, Jean P. Wiseman, Joseph A. Wiseman, Michael T Jr. Wiseman, Michael T Sr. Wolfe, Charles. Woods, John T III. Wright, Curtis. Wright, Leonard. Wright, Randy D. Yeamans, Douglas. Yeamans, Neil. Yeamans, Ronnie. Yoeuth, Peon. Yopp, Harold. Yopp, Jonathon. Yopp, Milton Thomas. Young, James. Young, Taing.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Young, Willie. Yow, Patricia D. Yow, Richard C. Zanca, Anthony V Sr. Zar, Ashley A. Zar, Carl J. Zar, John III. Zar, Steve. Zar, Steven. Zar, Troy A. Zerinque, John S Jr. Zirlott, Curtis. Zirlott, Jason D. Zirlott, Jeremy. Zirlott, Kimberly. Zirlott, Milton. Zirlott, Perry. Zirlott, Rosa H. Zito, Brian C. Zuvich, Michael A Jr. Ad Hoc Shrimp Trade Action Committee. Bryan Fishermens' Co-Op Inc. Louisiana Shrimp Association. South Carolina Shrimpers Association. Vietnamese-American Commerical Fisherman's Union. 3-G Enterprize dba Griffin's Seafood. A & G Trawlers Inc. A & T Shrimping. A Ford Able Seafood. A J Horizon Inc. A&M Inc. A&R Shrimp Co. A&T Shrimping. AAH Inc. AC Christopher Sea Food Inc. Ace of Trade LLC. Adriana Corp. AJ Boats Inc. AJ Horizon Inc. AJ's Seafood. Alario Inc. Alcide J Adams Jr. Aldebaran Inc. Aldebran Inc. Alexander and Dola. Alfred Englade Inc. Alfred Trawlers Inc. Allen Hai Tran dba Kien Giang. Al's Shrimp Co. Al's Shrimp Co LLC. Al's Shrimp Co LLC. Al's Whosale & Retail. Alton Cheeks. Amada Inc. Amber Waves. Amelia Isle. American Beauty. American Beauty Inc. American Eagle Enterprise Inc. American Girl. American Seafood. Americana Shrimp. Amvina II. Amvina II. Amy D Inc. Amy's Seafood Mart. An Kit. Andy Boy. Andy's SFD.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Angel Annie Inc. Angel Leigh. Angel Seafood Inc. Angela Marie Inc. Angela Marie Inc. Angelina Inc. Anna Grace LLC. Anna Grace LLC. Annie Thornton Inc. Annie Thornton Inc. Anthony Boy I. Anthony Boy I. Anthony Fillinich Sr. Apalachee Girl Inc. Aparicio Trawlers Inc dba Marcosa. Apple Jack Inc. Aquila Seafood Inc. Aquillard Seafood. Argo Marine. Arnold's Seafood. Arroya Cruz Inc. Art & Red Inc. Arthur Chisholm. A-Seafood Express. Ashley Deeb Inc. Ashley W 648675. Asian Gulf Corp. Atlantic. Atocha Troy A LeCompte Sr. Atwood Enterprises. B & B Boats Inc. B & B Seafood. B&J Seafood. BaBe Inc. Baby Ruth. Bailey, David B Sr—Bailey's Seafood. Bailey's Seafood of Cameron Inc. Bait Inc. Bait Inc. Baker Shrimp. Bama Love Inc. Bama Sea Products Inc. Bao Hung Inc. Bao Hung Inc. Bar Shrimp. Barbara Brooks Inc. Barbara Brooks Inc. Barisich Inc. Barisich Inc. Barnacle-Bill Inc. Barney's Bait & Seafood. Barrios Seafood. Bay Boy. Bay Islander Inc. Bay Sweeper Nets. Baye's Seafood 335654. Bayou Bounty Seafood LLC. Bayou Caddy Fisheries Inc. Bayou Carlin Fisheries. Bayou Carlin Fisheries Inc. Bayou Shrimp Processors Inc. BBC Trawlers Inc. BBS Inc. Beachcomber Inc. Beachcomber Inc. Bea's Corp. Beecher's Seafood. Believer Inc. Bennett's Seafood. Benny Alexie. Bergeron's Seafood. Bertileana Corp.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Best Sea-Pack of Texas Inc.
			Beth Lomonte Inc.
			Beth Lomonte Inc.
			Betty B.
			Betty H Inc.
			Bety Inc.
			BF Millis & Sons Seafood.
			Big Daddy Seafood Inc.
			Big Grapes Inc.
			Big Kev.
			Big Oak Seafood.
			Big Oak Seafood.
			Big Oaks Seafood.
			Big Shrimp Inc.
			Billy J Foret—BJF Inc.
			Billy Sue Inc.
			Billy Sue Inc.
			Biloxi Freezing & Processing.
			Binh Duong.
			BJB LLC.
			Blain & Melissa Inc.
			Blanca Cruz Inc.
			Blanchard & Cheramie Inc.
			Blanchard Seafood.
			Blazing Sun Inc.
			Blazing Sun Inc.
			Blue Water Seafood.
			Bluewater Shrimp Co.
			Bluffton Oyster Co.
			Boat Josey Wales.
			Boat Josey Wales LLC.
			Boat Monica Kiff.
			Boat Warrior.
			Bob-Rey Fisheries Inc.
			Bodden Trawlers Inc.
			Bolillo Prieto Inc.
			Bon Secour Boats Inc.
			Bon Secour Fisheries Inc.
			Bon Secur Boats Inc.
			Bonnie Lass Inc.
			Boone Seafood.
			Bosarge Boats.
			Bosarge Boats.
			Bosarge Boats Inc.
			Bottom Verification LLC.
			Bowers Shrimp.
			Bowers Shrimp Farm.
			Bowers Valley Shrimp Inc.
			Brad Friloux.
			Brad Nicole Seafood.
			Bradley John Inc.
			Bradley's Seafood Mkt.
			Brava Cruz Inc.
			Brenda Darlene Inc.
			Brett Anthony.
			Bridgeside Marina.
			Bridgeside Seafood.
			Bridget's Seafood Service Inc.
			Bridget's Seafood Service Inc.
			BRS Seafood.
			BRS Seafood.
			Bruce W Johnson Inc.
			Bubba Daniels Inc.
			Bubba Tower Shrimp Co.
			Buccaneer Shrimp Co.
			Buchmer Inc.
			Buck & Peed Inc.
			Buddy Boy Inc.
			Buddy's Seafood.
			Bumble Bee Seafoods LLC.
			Bumble Bee Seafoods LLC.
			Bundy Seafood.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Bundy's Seafood. Bunny's Shrimp. Burgbe Gump Seafood. Burnell Trawlers Inc. Burnell Trawlers Inc/Mamacita/Swamp Irish. Buster Brown Inc. By You Seafood. C & R Trawlers Inc. CA Magwood Enterprises Inc. Cajun Queen of LA LLC. Calcasien Point Bait N More Inc. Cam Ranh Bay. Camardelle's Seafood. Candy Inc. Cao Family Inc. Cap Robear. Cap'n Bozo Inc. Capn Jasper's Seafood Inc. Capt Aaron. Capt Adam. Capt Anthony Inc. Capt Bean (Richard A Ragas). Capt Beb Inc. Capt Bill Jr Inc. Capt Brother Inc. Capt Bubba. Capt Buck. Capt Carl. Capt Carlos Trawlers Inc. Capt Chance Inc. Capt Christopher Inc. Capt Chuckie. Capt Craig. Capt Craig Inc. Capt Crockett Inc. Capt Darren Hill Inc. Capt Dennis Inc. Capt Dickie Inc. Capt Dickie V Inc. Capt Doug. Capt Eddie Inc. Capt Edward Inc. Capt Eli's. Capt Elroy Inc. Capt Ernest LLC. Capt Ernest LLC. Capt GDA Inc. Capt George. Capt H & P Corp. Capt Havey Seafood. Capt Henry Seafood Dock. Capt Huy. Capt JDL Inc. Capt Jimmy Inc. Capt Joe. Capt Johnny II. Capt Jonathan. Capt Jonathan Inc. Capt Joshua Inc. Capt Jude 520556 13026. Capt Ken. Capt Kevin Inc. Capt Ko Inc. Capt Koung Lim. Capt Larry Seafood Market. Capt Larry's Inc. Capt LC Corp. Capt LD Seafood Inc. Capt Linton Inc. Capt Mack Inc. Capt Marcus Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Capt Morris. Capt Opie. Capt P Inc. Capt Pappie Inc. Capt Pat. Capt Paw Paw. Capt Pete Inc. Capt Peter Long Inc. Capt Pool Bear II's Seafood. Capt Quang. Capt Quina Inc. Capt Richard. Capt Ross Inc. Capt Roy. Capt Russell Jr Inc. Capt Ryan Inc. Capt Ryan's. Capt Sam. Capt Sang. Capt Scar Inc. Capt Scott. Capt Scott 5. Capt Scott Seafood. Capt Sparkers Shrimp. Capt St Peter. Capt T&T Corp. Capt Thien. Capt Tommy Inc. Capt Two Inc. Capt Van's Seafood. Capt Walley Inc. Capt Zoe Inc. Captain Allen's Bait & Tackle. Captain Arnulfo Inc. Captain Blair Seafood. Captain Dexter Inc. Captain D's. Captain Homer Inc. Captain Jeff. Captain JH III Inc. Captain Joshua. Captain Larry'O. Captain Miss Cammy Nhung. Captain Regis. Captain Rick. Captain T/Thiet Nguyen. Captain Tony. Captain Truong Phi Corp. Captain Vinh. Cap't-Brandon. Captian Thomas Trawler Inc. Carlino Seafood. Carly Sue Inc. Carmelita Inc. Carolina Lady Inc. Carolina Sea Foods Inc. Caroline and Calandra Inc. Carson & Co. Carson & Co Inc. Cary Encalade Trawling. Castellano's Corp. Cathy Cheramie Inc. CBS Seafood & Catering LLC. CBS Seafood & Catering LLC. Cecilia Enterprise Inc. CF Gollot & Son Sfd Inc. CF Gollott and Son Seafood Inc. Chackbay Lady. Chad & Chaz LLC. Challenger Shrimp Co Inc. Chalmette Marine Supply Co Inc. Chalmette Net & Trawl.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Chapa Shrimp Trawlers. Chaplin Seafood. Charlee Girl. Charles Guidry Inc. Charles Sellers. Charles White. Charlotte Maier Inc. Charlotte Maier Inc. Chef Seafood Ent LLC. Cheramies Landing. Cherry Pt Seafood. Cheryl Lynn Inc. Chez Francois Seafood. Chilling Pride Inc. Chin Nguyen Co. Chin Nguyen Co. Chinatown Seafood Co Inc. Chines Cajun Net Shop. Chris Hansen Seafood. Christian G Inc. Christina Leigh Shrimp Co. Christina Leigh Shrimp Company Inc. Christina Leigh Shrimp Company Inc. Cieutat Trawlers. Cinco de Mayo Inc. Cindy Lynn Inc. Cindy Mae Inc. City Market Inc. CJ Seafood. CJs Seafood. Clifford Washington. Clinton Hayes—C&S Enterprises of Brandon Inc. Cochran's Boat Yard. Colorado River Seafood. Colson Marine. Comm Fishing. Commercial Fishing Service CFS Seafoods. Cong Son. Cong-An Inc. Country Girl Inc. Country Inc. Courtney & Ory Inc. Cowdrey Fish. Cptn David. Crab-Man Bait Shop. Craig A Wallis, Keith Wallis dba W&W Dock & 10 boats. Cristina Seafood. CRJ Inc. Cruillas Inc. Crusader Inc. Crustacean Frustration. Crystal Gayle Inc. Crystal Light Inc. Crystal Light Inc. Curtis Henderson. Custom Pack Inc. Custom Pack Inc. Cyril's Ice House & Supplies. D & A Seafood. D & C Seafood Inc. D & J Shrimping LLC. D & M Seafood & Rental LLC. D Ditcharo Jr Seafoods. D G & R C Inc. D S L & R Inc. D&T Marine Inc. Daddys Boys. DaHa Inc/Cat'Sass. DAHAPA Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Dale's Seafood Inc. Dang Nguyen. Daniel E Lane. Danny Boy Inc. Danny Max. David & Danny Inc. David C Donnelly. David Daniels. David Ellison Jr. David Gollott Sfd Inc. David W Casanova's Seafood. David White. David's Shrimping Co. Davis Seafood. Davis Seafood. Davis Seafood Inc. Dawn Marie. Deana Cheramie Inc. Deanna Lea. Dean's Seafood. Deau Nook. Debbe Anne Inc. Deep Sea Foods Inc/Jubilee Foods Inc. Delcambre Seafood. Dell Marine Inc. Dennis Menesses Seafood. Dennis' Seafood Inc. Dennis Shrimp Co Inc. Desperado. DFS Inc. Diamond Reef Seafood. Diem Inc. Dinh Nguyen. Dixie General Store LLC. Dixie Twister. Dominick's Seafood Inc. Don Paco Inc. Donald F Boone II. Dong Nguyen. Donini Seafoods Inc. Donna Marie. Donovan Tien I & II. Dopson Seafood. Dorada Cruz Inc. Double Do Inc. Double Do Inc. Doug and Neil Inc. Douglas Landing. Doxey's Oyster & Shrimp. Dragnet II. Dragnet Inc. Dragnet Seafood LLC. Dubberly's Mobile Seafood. Dudenhefer Seafood. Dugas Shrimp Co LLC. Dunamis Towing Inc. Dupree's Seafood. Duval & Duval Inc. Dwayne's Dream Inc. E & M Seafood. E & T Boating. E Gardner McClellan. E&E Shrimp Co Inc. East Coast Seafood. East Coast Seafood. East Coast Seafood. East Coast Seafood. Edisto Queen LLC. Edward Garcia Trawlers. EKV Inc. El Pedro Fishing & Trading Co Inc. Eliminator Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Elizabeth Nguyen. Ellerbee Seafoods. Ellie May. Elmira Pflueckhahn Inc. Elmira Pflueckhahn Inc. Elvira G Inc. Emily's SFD. Emmanuel Inc. Ensenada Cruz Inc. Enterprise. Enterprise Inc. Equalizer Shrimp Co Inc. Eric F Dufrene Jr LLC. Erica Lynn Inc. Erickson & Jensen Seafood Packers. Ethan G Inc. Excalibur LLC. F/V Apalachee Warrior. F/V Atlantis I. F/V Capt Walter B. F/V Captain Andy. F/V Eight Flags. F/V Mary Ann. F/V Miss Betty. F/V Morning Star. F/V Nam Linh. F/V Olivia B. F/V Phuoc Thanh Mai II. F/V Sea Dolphin. F/V Southern Grace. F/V Steven Mai. F/V Steven Mai II. Famer Boys Catfish Kitchens. Family Thing. Father Dan Inc. Father Lasimir Inc. Father Mike Inc. Fiesta Cruz Inc. Fine Shrimp Co. Fire Fox Inc. Fisherman's Reef Shrimp Co. Fishermen IX Inc. Fishing Vessel Enterprise Inc. Five Princesses Inc. FKM Inc. Fleet Products Inc. Flower Shrimp House. Flowers Seafood Co. Floyd's Wholesale Seafood Inc. Fly By Night Inc. Forest Billiot Jr. Fortune Shrimp Co Inc. FP Oubre. Francis Brothers Inc. Francis Brothers Inc. Francis III. Frank Toomer Jr. Fran-Tastic Too. Frederick-Dan. Freedom Fishing Inc. Freeman Seafood. Frelich Seafood Inc. Frenchie D–282226. Fripp Point Seafood. G & L Trawling Inc. G & O Shrimp Co Inc. G & O Trawlers Inc. G & S Trawlers Inc. G D Ventures II Inc. G G Seafood. G R LeBlanc Trawlers Inc. Gail's Bait Shop.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Gale Force Inc. Gambler Inc. Gambler Inc. Garijak Inc. Gary F White. Gator's Seafood. Gay Fish Co. Gay Fish Co. GeeChee Fresh Seafood. Gemita Inc. Gene P Callahan Inc. George J Price Sr Ent Inc. Georgia Shrimp Co LLC. Gerica Marine. Gilden Enterprises. Gillikin Marine Railways Inc. Gina K Inc. Gisco Inc. Gisco Inc. Glenda Guidry Inc. Gloria Cruz Inc. Go Fish Inc. God's Gift. God's Gift Shrimp Vessel. Gogie. Gold Coast Seafood Inc. Golden Gulf Coast Pkg Co Inc. Golden Phase Inc. Golden Text Inc. Golden Text Inc. Golden Text Inc. Goldenstar. Gollott Brothers Sfd Co Inc. Gollott's Oil Dock & Ice House Inc. Gonzalez Trawlers Inc. Gore Enterprises Inc. Gore Enterprizes Inc. Gore Seafood Co. Gore Seafood Inc. Gove Lopez. Graham Fisheries Inc. Graham Shrimp Co Inc. Graham Shrimp Co Inc. Gramps Shrimp Co. Grandma Inc. Grandpa's Dream. Grandpa's Dream. Granny's Garden and Seafood. Green Flash LLC. Greg Inc. Gregory Mark Gaubert. Gregory Mark Gaubert. Gregory T Boone. Gros Tete Trucking Inc. Guidry's Bait Shop. Guidry's Net Shop. Gulf Central Seaood Inc. Gulf Crown Seafood Co Inc. Gulf Fish Inc. Gulf Fisheries Inc. Gulf Island Shrimp & Seafood II LLC. Gulf King Services Inc. Gulf Pride Enterprises Inc. Gulf Seaway Seafood Inc. Gulf Shrimp. Gulf South Inc. Gulf Stream Marina LLC. Gulf Sweeper Inc (Trawler Gulf Sweeper). Gypsy Girl Inc. H & L Seafood. Hack Berry Seafood. Hagen & Miley Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Hailey Marie Inc. Hanh Lai Inc. Hannah Joyce Inc. Hardy Trawlers. Hardy Trawlers. Harrington Fish Co Inc. Harrington Seafood & Supply Inc. Harrington Shrimp Co Inc. Harrington Trawlers Inc. Harris Fisheries Inc. Hazel's Hustler. HCP LLC. Heather Lynn Inc. Heavy Metal Inc. Hebert Investments Inc. Hebert's Mini Mart LLC. Helen E Inc. Helen Kay Inc. Helen Kay Inc. Helen W Smith Inc. Henderson Seafood. Henry Daniels Inc. Hermosa Cruz Inc. Hi Seas of Dulac Inc. Hien Le Van Inc. High Hope Inc. Hoang Anh. Hoang Long I, II. Holland Enterprises. Holly Beach Seafood. Holly Marie's Seafood Market. Hombre Inc. Home Loving Care Co. Hondumex Ent Inc. Hong Nga Inc. Hongri Inc. Houston Foret Seafood. Howerin Trawlers Inc. HTH Marine Inc. Hubbard Seafood. Hurricane Emily Seafood Inc. Hutcherson Christian Shrimp Inc. Huyen Inc. Icy Seafood II Inc. ICY Seafood Inc. Icy Seafood Inc. Ida's Seafood Rest & Market. Ike & Zack Inc. Independent Fish Company Inc. Inflation Inc. Integrity Fisheries Inc. Integrity Fishing Inc. International Oceanic Ent. Interstate Vo LLC. Intracoastal Seafood Inc. Iorn Will Inc. Irma Trawlers Inc. Iron Horse Inc. Isabel Maier Inc. Isabel Maier Inc. Isla Cruz Inc. J & J Rentals Inc. J & J Trawler's Inc. J & R Seafood. J Collins Trawlers. J D Land Co. Jackie & Hiep Trieu. Jacob A Inc. Jacquelin Marie Inc. Jacquelin Marie Inc. James D Quach Inc. James E Scott III.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			James F Dubberly. James Gadson. James J Matherne Jr. James J Matherne Sr. James Kenneth Lewis Sr. James LaRive Jr. James W Green Jr dba Miss Emilie Ann. James W Hicks. Janet Louise Inc. Jani Marie. JAS Inc. JBS Packing Co Inc. JBS Packing Inc. JCM. Jean's Bait. Jeff Chancey. Jemison Trawler's Inc. Jenna Dawn LLC. Jennifer Nguyen—Capt T. Jensen Seafood Pkg Co Inc. Jesse LeCompte Jr. Jesse LeCompte Sr. Jesse Shantelle Inc. Jessica Ann Inc. Jessica Inc. Jesus G Inc. Jimmy and Valerie Bonvillain. Jimmy Le Inc. Jim's Cajen Shrimp. Joan of Arc Inc. JoAnn and Michael W Daigle. Jody Martin. Joe Quach. Joel's Wild Oak Bait Shop & Fresh Seafood. John A Norris. John J Alexie. John Michael E Inc. John V Alexie. Johnny & Joyce's Seafood. Johnny O Co. Johnny's Seafood. John's Seafood. Joker's Wild. Jones-Kain Inc. Joni John Inc (Leon J Champagne). Jon's C Seafood Inc. Joseph Anthony. Joseph Anthony Inc. Joseph Garcia. Joseph Martino. Joseph Martino Corp. Joseph T Vermeulen. Josh & Jake Inc. Joya Cruz Inc. JP Fisheries. Julie Ann LLC. Julie Hoang. Julie Shrimp Co Inc (Trawler Julie). Julio Gonzalez Boat Builders Inc. Justin Dang. JW Enterprise. K & J Trawlers. K&D Boat Company. K&S Enterprises Inc. Kalliainen Seafoods Inc. KAM Fishing. Kandi Sue Inc. Karl M Belsome LLC. KBL Corp. KDH Inc. Keith M Swindell.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Kellum's Seafood. Kellum's Seafood. Kelly Marie Inc. Ken Lee's Dock LLC. Kenneth Guidry. Kenny-Nancy Inc. Kentucky Fisheries Inc. Kentucky Trawlers Inc. Kevin & Bryan (M/V). Kevin Dang. Khang Dang. Khanh Huu Vu. Kheng Sok Shrimping. Kim & James Inc. Kim Hai II Inc. Kim Hai Inc. Kim's Seafood. Kingdom World Inc. Kirby Seafood. Klein Express. KMB Inc. Knight's Seafood Inc. Knight's Seafood Inc. Knowles Noel Camardelle. Kramer's Bait Co. Kris & Cody Inc. KTC Fishery LLC. L & M. L & N Friendship Corp. L & O Trawlers Inc. L & T Inc. L&M. LA—3184 CA. La Belle Idee. La Macarela Inc. La Pachita Inc. LA–6327–CA. LaBauve Inc. LaBauve Inc. Lade Melissa Inc. Lady Agnes II. Lady Agnes III. Lady Amelia Inc. Lady Anna I. Lady Anna II. Lady Barbara Inc. Lady Carolyn Inc. Lady Catherine. Lady Chancery Inc. Lady Chelsea Inc. Lady Danielle. Lady Debra Inc. Lady Dolcina Inc. Lady Gail Inc. Lady Katherine Inc. Lady Kelly Inc. Lady Kelly Inc. Lady Kristie. Lady Lavang LLC. Lady Liberty Seafood Co. Lady Lynn Ltd. Lady Marie Inc. Lady Melissa Inc. Lady Shelly. Lady Shelly. Lady Snow Inc. Lady Stephanie. Lady Susie Inc. Lady T Kim Inc. Lady TheLna. Lady Toni Inc. Lady Veronica.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Lafitte Frozen Foods Corp. Lafont Inc. Lafourche Clipper Inc. Lafourche Clipper Inc. Lamarah Sue Inc. Lan Chi Inc. Lan Chi Inc. Lancero Inc. Lanny Renard and Daniel Bourque. Lapeyrouse Seafood Bar Groc Inc. Larry G Kellum Sr. Larry Scott Freeman. Larry W Hicks. Lasseigne & Sons Inc. Laura Lee. Lauren O. Lawrence Jacobs Sfd. Lazaretta Packing Inc. Le & Le Inc. Le Family Inc. Le Family Inc. Le Tra Inc. Leek & Millington Trawler Privateeer. Lee's Sales & Distribution. Leonard Shrimp Producers Inc. Leoncea B Regnier. Lerin Lane. Li Johnson. Liar Liar. Libertad Fisheries Inc. Liberty I. Lighthouse Fisheries Inc. Lil Aly. Lil Arthur Inc. Lil BJ LLC. Lil Robbie Inc. Lil Robbie Inc. Lil Robin. Lil Robin. Lilla. Lincoln. Linda & Tot Inc. Linda Cruz Inc. Linda Hoang Shrimp. Linda Lou Boat Corp. Linda Lou Boat Corp. Lisa Lynn Inc. Lisa Lynn Inc. Little Andrew Inc. Little Andy Inc. Little Arthur. Little David Gulf Trawler Inc. Little Ernie Gulf Trawler Inc. Little Ken Inc. Little Mark. Little William Inc. Little World. LJL Inc. Long Viet Nguyen. Longwater Seafood dba Ryan H Longwater. Louisiana Gulf Shrimp LLC. Louisiana Lady Inc. Louisiana Man. Louisiana Newpack Shrimp Co Inc. Louisiana Pride Seafood Inc. Louisiana Pride Seafood Inc. Louisiana Seafood Dist LLC. Louisiana Shrimp & Packing Inc. Louisiana Shrimp and Packing Co Inc. Lovely Daddy II & III. Lovely Jennie.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Low Country Lady (Randolph N Rhodes). Low County Lady. Luchador Inc. Lucky. Lucky I. Lucky Jack Inc. Lucky Lady. Lucky Lady II. Lucky Leven Inc. Lucky MV. Lucky Ocean. Lucky Sea Star Inc. Lucky Star. Lucky World. Lucky's Seafood Market & Poboys LLC. Luco Drew's. Luisa Inc. Lupe Martinez Inc. LV Marine Inc. LW Graham Inc. Lyle LeCompte. Lynda Riley Inc. Lynda Riley Inc. M & M Seafood. M V Sherry D. M V Tony Inc. M&C Fisheries. M/V Baby Doll. M/V Chevo's Bitch. M/V Lil Vicki. M/V Loco-N Motion. M/V Patsy K #556871. M/V X L. Mabry Allen Miller Jr. Mad Max Seafood. Madera Cruz Inc. Madison Seafood. Madlin Shrimp Co Inc. Malibu. Malolo LLC. Mamacita Inc. Man Van Nguyen. Manteo Shrimp Co. Marco Corp. Marcos A. Maria Elena Inc. Maria Sandi. Mariachi Trawlers Inc. Mariah Jade Shrimp Company. Marie Teresa Inc. Marine Fisheries. Marisa Elida Inc. Mark and Jace. Marleann. Martin's Fresh Shrimp. Mary Bea Inc. Master Brandon Inc. Master Brock. Master Brock. Master Dylan. Master Gerald Trawlers Inc. Master Hai. Master Hai II. Master Henry. Master Jared Inc. Master Jhy Inc. Master John Inc. Master Justin Inc. Master Justin Inc. Master Ken Inc. Master Kevin Inc. Master Martin Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Master Mike Inc. Master NT Inc. Master Pee-Wee. Master Ronald Inc. Master Scott. Master Scott II. Master Seelos Inc. Master T. Master Tai LLC. Master Tai LLC. Mat Roland Seafood Co. Maw Doo. Mayflower. McQuaig Shrimp Co Inc. Me Kong. Melerine Seafood. Melody Shrimp Co. Mer Shrimp Inc. Michael Lynn. Michael Nguyen. Michael Saturday's Fresh Every Day South Carolina Shrimp. Mickey Nelson Net Shop. Mickey's Net. Midnight Prowler. Mike's Seafood Inc. Miley's Seafood Inc. Militello and Son Inc. Miller & Son Seafood Inc. Miller Fishing. Milliken & Son's. Milton J Dufrene and Son Inc. Milton Yopp—Capt'n Nathan & Thomas Winfield. Minh & Liem Doan. Mis Quynh Chi II. Miss Adrianna Inc. Miss Alice Inc. Miss Ann Inc. Miss Ann Inc. Miss Ashleigh. Miss Ashleigh Inc. Miss Barbara. Miss Barbara Inc. Miss Bernadette A Inc. Miss Bertha (M/V). Miss Beverly Kay. Miss Brenda. Miss Candace. Miss Candace Nicole Inc. Miss Carla Jean Inc. Miss Caroline Inc. Miss Carolyn Louise Inc. Miss Caylee. Miss Charlotte Inc. Miss Christine III. Miss Cleda Jo Inc. Miss Courtney Inc. Miss Courtney Inc. Miss Cynthia. Miss Danielle Gulf Trawler Inc. Miss Danielle LLC. Miss Dawn. Miss Ellie Inc. Miss Faye LLC. Miss Fina Inc. Miss Georgia Inc. Miss Hannah. Miss Hannah Inc. Miss Hazel Inc. Miss Hilary Inc. Miss Jennifer Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Miss Joanna Inc.
			Miss Julia.
			Miss Kandy Tran LLC.
			Miss Kandy Tran LLC.
			Miss Karen.
			Miss Kathi Inc.
			Miss Kathy.
			Miss Kaylyn LLC.
			Miss Khayla.
			Miss Lil.
			Miss Lillie Inc.
			Miss Liz Inc.
			Miss Loraine.
			Miss Loraine Inc.
			Miss Lori Dawn IV Inc.
			Miss Lori Dawn V Inc.
			Miss Lori Dawn VI Inc.
			Miss Lori Dawn VII Inc.
			Miss Lorie Inc.
			Miss Luana D Shrimp Co.
			Miss Luana D Shrimp Co.
			Miss Madeline Inc.
			Miss Madison.
			Miss Marie.
			Miss Marie Inc.
			Miss Marilyn Louis Inc.
			Miss Marilyn Louise.
			Miss Marilyn Louise Inc.
			Miss Marissa Inc.
			Miss Martha Inc.
			Miss Martha Inc.
			Miss Mary T.
			Miss Myle.
			Miss Narla.
			Miss Nicole.
			Miss Nicole Inc.
			Miss Plum Inc.
			Miss Quynh Anh I.
			Miss Quynh Anh I LLC.
			Miss Quynh Anh II LLC.
			Miss Redemption LLC.
			Miss Rhianna Inc.
			Miss Sambath.
			Miss Sandra II.
			Miss Sara Ann.
			Miss Savannah.
			Miss Savannah II.
			Miss Soriya.
			Miss Suzanne.
			Miss Sylvia.
			Miss Than.
			Miss Thom.
			Miss Thom Inc.
			Miss Tina Inc.
			Miss Trinh Trinh.
			Miss Trisha Inc.
			Miss Trisha Inc.
			Miss Verna Inc.
			Miss Vicki.
			Miss Victoria Inc.
			Miss Vivian Inc.
			Miss WillaDean.
			Miss Winnie Inc.
			Miss Yvette Inc.
			Miss Yvonne.
			Misty Morn Eat.
			Misty Star.
			MJM Seafood Inc.
			M'M Shrimp Co Inc.
			Mom & Dad Inc.
			Mona-Dianne Seafood.
			Montha Sok and Tan No Le.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Moon River Inc.
			Moon Tillett Fish Co Inc.
			Moonlight.
			Moonlight Mfg.
			Moore Trawlers Inc.
			Morgan Creek Seafood.
			Morgan Rae Inc.
			Morning Star.
			Morrison Seafood.
			Mother Cabrini.
			Mother Teresa Inc.
			Mr & Mrs Inc.
			Mr & Mrs Inc.
			Mr Coolly.
			Mr Fox.
			Mr Fox.
			Mr G.
			Mr Gaget LLC.
			Mr Henry.
			Mr Natural Inc.
			Mr Neil.
			Mr Phil T Inc.
			Mr Sea Inc.
			Mr Verdin Inc.
			Mr Williams.
			Mrs Judy Too.
			Mrs Tina Lan Inc.
			Ms Alva Inc.
			Ms An.
			My Angel II.
			My Blues.
			My Dad Whitney Inc.
			My Girls LLC.
			My Thi Tran Inc.
			My Three Sons Inc.
			My V Le Inc.
			My-Le Thi Nguyen.
			Myron A Smith Inc.
			Nancy Joy.
			Nancy Joy Inc.
			Nancy Joy Inc.
			Nanny Granny Inc.
			Nanny Kat Seafood LLC.
			Napolean Seafoods.
			Napoleon II.
			Napoleon Seafood.
			Napoleon SF.
			Naquin's Seafood.
			Nautilus LLC.
			Nelma Y Lane.
			Nelson and Son.
			Nelson Trawlers Inc.
			Nelson's Quality Shrimp Company.
			Nevgulmarco Co Inc.
			New Deal Comm Fishing.
			New Way Inc.
			Nguyen Day Van.
			Nguyen Express.
			Nguyen Int'l Enterprises Inc.
			Nguyen Shipping Inc.
			NHU UYEN.
			Night Moves of Cut Off Inc.
			Night Shift LLC.
			Night Star.
			North Point Trawlers Inc.
			North Point Trawlers Inc.
			Nuestra Cruz Inc.
			Nunez Seafood.
			Oasis.
			Ocean Bird Inc.
			Ocean Breeze Inc.
			Ocean Breeze Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Ocean City Corp. Ocean Emperor Inc. Ocean Harvest Wholesale Inc. Ocean Pride Seafood Inc. Ocean Seafood. Ocean Select Seafood LLC. Ocean Springs Seafood Market Inc. Ocean Wind Inc. Oceanica Cruz Inc. Odin LLC. Old Maw Inc. Ole Holbrook's Fresh Fish Market LLC. Ole Nelle. One Stop Bait & Ice. Open Sea Inc. Orage Enterprises Inc. Orn Roeum Shrimping. Otis Cantrelle Jr. Otis M Lee Jr. Owens Shrimping. Palmetto Seafood Inc. Papa Rod Inc. Papa T. Pappy Inc. Pappy's Gold. Parfait Enterprises Inc. Paris/Asia. Parramore Inc. Parrish Shrimping Inc. Pascagoula Ice & Freezer Co Inc. Pat-Lin Enterprises Inc. Patricia Foret. Patrick Sutton Inc. Patty Trish Inc. Paul Piazza and Son Inc. Paw Paw Allen. Paw Paw Pride Inc. Pearl Inc dba Indian Ridge Shrimp Co. Pei Gratia Inc. Pelican Point Seafood Inc. Penny V LLC. Perlita Inc. Perseverance I LLC. Pete & Queenie Inc. Phat Le and Le Tran. Phi Long Inc. Phi-Ho LLC. Pip's Place Marina Inc. Plaisance Trawlers Inc. Plata Cruz Inc. Poc-Tal Trawlers Inc. Pointe-Aux-Chene Marina. Pontchautrain Blue Crab. Pony Express. Poppee. Poppy's Pride Seafood. Port Bolivar Fisheries Inc. Port Marine Supplies. Port Royal Seafood Inc. Poteet Seafood Co Inc. Potter Boats Inc. Price Seafood Inc. Prince of Tides. Princess Ashley Inc. Princess Celine Inc. Princess Cindy Inc. Princess Lorie LLC. Princess Mary Inc. Prosperity. PT Fisheries Inc. Punch's Seafood Mkt. Purata Trawlers Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Pursuer Inc.
			Quality Seafood.
			Quang Minh II Inc.
			Queen Lily Inc.
			Queen Mary.
			Queen Mary Inc.
			Quinta Cruz Inc.
			Quoc Bao Inc.
			Quynh NHU Inc.
			Quynh Nhu Inc.
			R & J Inc.
			R & K Fisheries LLC.
			R & L Shrimp Inc.
			R & P Fisheries.
			R & R Bait/Seafood.
			R & S Shrimping.
			R & T Atocha LLC.
			R&D Seafood.
			R&K Fisheries LLC.
			R&R Seafood.
			RA Lesso Brokerage Co Inc.
			RA Lesso Seafood Co Inc.
			Rachel-Jade.
			Ralph Lee Thomas Jr.
			Ralph W Jones.
			Ramblin Man Inc.
			Ranchero Trawlers Inc.
			Randall J Pinell Inc.
			Randall J Pinell Inc.
			Randall K and Melissa B Richard.
			Randall Pinell.
			Randy Boy Inc.
			Randy Boy Inc.
			Rang Dong.
			Raul L Castellanos.
			Raul's Seafood.
			Raul's Seafood.
			Rayda Cheramie Inc.
			Raymond LeBouef.
			RCP Seafood I II III.
			RDR Shrimp Inc.
			Reagan's Seafood.
			Rebecca Shrimp Co Inc.
			Rebel Seafood.
			Regulus.
			Rejimi Inc.
			Reno's Sea Food.
			Res Vessel.
			Reyes Trawlers Inc.
			Rick's Seafood Inc.
			Ricky B LLC.
			Ricky G Inc.
			Riffle Seafood.
			Rigolets Bait & Seafood LLC.
			Riverside Bait & Tackle.
			RJ's.
			Roatex Ent Inc.
			Robanie C Inc.
			Robanie C Inc.
			Robanie C Inc.
			Robert E Landry.
			Robert H Schrimpf.
			Robert Johnson.
			Robert Keenan Seafood.
			Robert Upton or Terry Upton.
			Robert White Seafood.
			Rockin Robbin Fishing Boat Inc.
			Rodney Hereford Jr.
			Rodney Hereford Sr.
			Rodney Hereford Sr.
			Roger Blanchard Inc.
			Rolling On Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Romo Inc.
			Ronald Louis Anderson Jr.
			Rosa Marie Inc.
			Rose Island Seafood.
			RPM Enterprises LLC.
			Rubi Cruz Inc.
			Ruf-N-Redy Inc.
			Rutley Boys Inc.
			Sadie D Seafood.
			Safe Harbour Seafood Inc.
			Salina Cruz Inc.
			Sally Kim III.
			Sally Kim IV.
			Sam Snodgrass & Co.
			Samaira Inc.
			San Dia.
			Sand Dollar Inc.
			Sandy N.
			Sandy O Inc.
			Santa Fe Cruz Inc.
			Santa Maria I Inc.
			Santa Maria II.
			Santa Monica Inc.
			Scavanger.
			Scooby Inc.
			Scooby Inc.
			Scottie and Juliette Dufrene.
			Scottie and Juliette Dufrene.
			Sea Angel.
			Sea Angel Inc.
			Sea Bastion Inc.
			Sea Drifter Inc.
			Sea Durbin Inc.
			Sea Eagle.
			Sea Eagle Fisheries Inc.
			Sea Frontier Inc.
			Sea Gold Inc.
			Sea Gulf Fisheries Inc.
			Sea Gypsy Inc.
			Sea Hawk I Inc.
			Sea Horse Fisheries.
			Sea Horse Fisheries Inc.
			Sea King Inc.
			Sea Pearl Seafood Company Inc.
			Sea Queen IV.
			Sea Trawlers Inc.
			Sea World.
			Seabrook Seafood Inc.
			Seabrook Seafood Inc.
			Seafood & Us Inc.
			Seaman's Magic Inc.
			Seaman's Magic Inc.
			Seaside Seafood Inc.
			Seaweed 2000.
			Seawolf Seafood.
			Second Generation Seafood.
			Shark Co Seafood Inter Inc.
			Sharon—Ali Michelle Inc.
			Shelby & Barbara Seafood.
			Shelby & Barbara Seafood.
			Shelia Marie LLC.
			Shell Creek Seafood Inc.
			Shirley Elaine.
			Shirley Girl LLC.
			Shrimp Boat Patrice.
			Shrimp Boating Inc.
			Shrimp Express.
			Shrimp Man.
			Shrimp Networks Inc.
			Shrimp Trawler.
			Shrimper.
			Shrimper.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Shrimpy's.
			Si Ky Lan Inc.
			Si Ky Lan Inc.
			Si Ky Lan Inc.
			Sidney Fisheries Inc.
			Silver Fox.
			Silver Fox LLC.
			Simon.
			Sims Shrimping.
			Skip Toomer Inc.
			Skip Toomer Inc.
			Skyla Marie Inc.
			Smith & Sons Seafood Inc.
			Snowdrift.
			Snowdrift.
			Sochenda.
			Soeung Phat.
			Son T Le Inc.
			Son's Pride Inc.
			Sophie Marie Inc.
			Soul Mama Inc.
			Souther Obsession Inc.
			Southern Lady.
			Southern Nightmare Inc.
			Southern Star.
			Southshore Seafood.
			Spencers Seafood.
			Sprig Co Inc.
			St Anthony Inc.
			St Daniel Phillip Inc.
			St Dominic.
			St Joseph.
			St Joseph.
			St Joseph II Inc.
			St Joseph III Inc.
			St Joseph IV Inc.
			St Martin.
			St Martyrs VN.
			St Mary Seafood.
			St Mary Seven.
			St Mary Tai.
			St Michael Fuel & Ice Inc.
			St Michael's Ice & Fuel.
			St Peter.
			St Peter 550775.
			St Teresa Inc.
			St Vincent Andrew Inc.
			St Vincent Gulf Shrimp Inc.
			St Vincent One B.
			St Vincent One B Inc.
			St Vincent SF.
			St Vincent Sfd Inc.
			Start Young Inc.
			Steamboat Bills Seafood.
			Stella Mestre Inc.
			Stephen Dantin Jr.
			Stephney's Seafood.
			Stipelcovich Marine Wks.
			Stone-Co Farms LP.
			Stone-Co Farms LP.
			Stormy Sean Inc.
			Stormy Seas Inc.
			Sun Star Inc.
			Sun Swift Inc.
			Sunshine.
			Super Coon Inc.
			Super Cooper Inc.
			Swamp Irish Inc.
			Sylvan P Racine Jr—Capt Romain.
			T & T Seafood.
			T Brothers.
			T Cvitanovich Seafood LLC.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Ta Do. Ta T Vo Inc. Ta T Vo Inc. Tana Inc. Tanya Lea Inc. Tanya Lea Inc. Tanya Lea Inc. Tasha Lou. T–Brown Inc. Tee Frank Inc. Tee Tigre Inc. Tercera Cruz Inc. Terrebonne Seafood Inc. Terri Monica. Terry Luke Corp. Terry Luke Corp. Terry Luke Corp. Terry Lynn Inc. Te-Sam Inc. Texas 1 Inc. Texas 18 Inc. Texas Lady Inc. Texas Pack Inc. Tex-Mex Cold Storage Inc. Tex-Mex Cold Storage Inc. Thai & Tran Inc. Thai Bao Inc. Thanh Phong. The Boat Phat Tai. The Fishermans Dock. The Last One. The Light House Bait & Seafood Shack LLC. The Mayporter Inc. The NGO. The Seafood Shed. Thelma J Inc. Theresa Seafood Inc. Third Tower Inc. Thomas Winfield—Capt Nathan. Thompson Bros. Three C's. Three Dads. Three Sons. Three Sons Inc. Three Sons Inc. Thunder Roll. Thunderbolt Fisherman's Seafood Inc. Thy Tra Inc. Thy Tra Inc. Tidelands Seafood Co Inc. Tiffani Claire Inc. Tiffani Claire Inc. Tiger Seafood. Tikede Inc. Timmy Boy Corp. Tina Chow. Tina T LLC. Tino Mones Seafood. TJ's Seafood. Toan Inc. Todd Co. Todd's Fisheries. Tom LE LLC. Tom Le LLC. Tom N & Bill N Inc. Tommy Bui dba Mana II. Tommy Cheramie Inc. Tommy Gulf Sea Food Inc. Tommy's Seafood Inc. Tonya Jane Inc. Tony-N.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Tookie Inc.
			Tot & Linda Inc.
			T-Pops Inc.
			Tran Phu Van.
			Tran's Express Inc.
			Travis—Shawn.
			Travis—Shawn.
			Trawler Azteca.
			Trawler Becky Lyn Inc.
			Trawler Capt GC.
			Trawler Capt GC II.
			Trawler Dalia.
			Trawler Doctor Bill.
			Trawler Gulf Runner.
			Trawler HT Seaman.
			Trawler Joyce.
			Trawler Kristi Nicole.
			Trawler Kyle & Courtney.
			Trawler Lady Catherine.
			Trawler Lady Gwen Doe.
			Trawler Linda B Inc.
			Trawler Linda June.
			Trawler Little Brothers.
			Trawler Little Gavino.
			Trawler Little Rookie Inc.
			Trawler Mary Bea.
			Trawler Master Alston.
			Trawler Master Jeffery Inc.
			Trawler Michael Anthony Inc.
			Trawler Mildred Barr.
			Trawler Miss Alice Inc.
			Trawler Miss Jamie.
			Trawler Miss Kelsey.
			Trawler Miss Sylvia Inc.
			Trawler Mrs Viola.
			Trawler Nichols Dream.
			Trawler Raindear Partnership.
			Trawler Rhonda Kathleen.
			Trawler Rhonda Lynn.
			Trawler Sandra Kay.
			Trawler Sarah Jane.
			Trawler Sea Wolf.
			Trawler Sea Wolf.
			Trawler SS Chaplin.
			Trawler The Mexican.
			Trawler Wallace B.
			Trawler Wylie Milam.
			Triple C Seafood.
			Triple T Enterprises Inc.
			Triplets Production.
			Tropical SFD.
			Troy A LeCompte Sr.
			True World Foods Inc.
			T's Seafood.
			Tu Viet Vu.
			TVN Marine Inc.
			TVN Marine Inc.
			Two Flags Inc.
			Tyler James.
			Ultima Cruz Inc.
			UTK Enterprises Inc.
			V & B Shrimping LLC.
			Valona Sea Food.
			Valona Seafood Inc.
			Van Burren Shrimp Co.
			Vaquero Inc.
			Varon Inc.
			Venetian Isles Marina.
			Venice Seafood Exchange Inc.
			Venice Seafood LLC.
			Vera Cruz Inc.
			Veronica Inc.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Versaggi Shrimp Corp.
			Victoria Rose Inc.
			Viet Giang Corp.
			Vigilante Trawlers Inc.
			Village Creek Seafood.
			Villers Seafood Co Inc.
			Vina Enterprises Inc.
			Vincent L Alexie Jr.
			Vincent Piazza Jr & Sons Seafood Inc.
			Vin-Penny.
			Vivian Lee Inc.
			Von Harten Shrimp Co Inc.
			VT & L Inc.
			Vu NGO.
			Vu-Nguyen Partners.
			W L & O Inc.
			Waccamaw Producers.
			Wait-N-Sea Inc.
			Waller Boat Corp.
			Walter R Hicks.
			Ward Seafood Inc.
			Washington Seafood.
			Watermen Industries Inc.
			Watermen Industries Inc.
			Waymaker Inc.
			Wayne Estay Shrimp Co Inc.
			WC Trawlers Inc.
			We Three Inc.
			We Three Inc.
			Webster's Inc.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros.
			Weems Bros Seafood.
			Weems Bros Seafood Co.
			Weiskopf Fisheries LLC.
			Wendy & Eric Inc.
			Wescovich Inc.
			West Point Trawlers Inc.
			Westley J Domangue.
			WH Blanchard Inc.
			Whiskey Joe Inc.
			White and Black.
			White Bird.
			White Foam.
			White Gold.
			Wilcox Shrimping Inc.
			Wild Bill.
			Wild Eagle Inc.
			William E Smith Jr Inc.
			William Lee Inc.
			William O Nelson Jr.
			William Patrick Inc.
			William Smith Jr Inc.
			Willie Joe Inc.
			Wind Song Inc.
			Wonder Woman.
			Woods Fisheries Inc.
			Woody Shrimp Co Inc.
			Yeaman's Inc.
			Yen Ta.

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Yogi's Shrimp. You & Me Shrimp. Ysclaskey Seafood. Zirlott Trawlers Inc. Zirlott Trawlers Inc.

[FR Doc. 2012–11118 Filed 5/31/2012 at 8:45 am]

BILLING CODE 9111–14–P

FEDERAL REGISTER

Vol. 77 Friday,
No. 106 June 1, 2012

Part III

The President

Proclamation 8829—Commemoration of the 50th Anniversary of the Vietnam War
Proclamation 8830—National Hurricane Preparedness Week, 2012
Proclamation 8831—Prayer for Peace, Memorial Day, 2012

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Presidential Documents

Title 3—

The President

Proclamation 8829 of May 25, 2012

Commemoration of the 50th Anniversary of the Vietnam War

By the President of the United States of America

A Proclamation

As we observe the 50th anniversary of the Vietnam War, we reflect with solemn reverence upon the valor of a generation that served with honor. We pay tribute to the more than 3 million servicemen and women who left their families to serve bravely, a world away from everything they knew and everyone they loved. From Ia Drang to Khe Sanh, from Hue to Saigon and countless villages in between, they pushed through jungles and rice paddies, heat and monsoon, fighting heroically to protect the ideals we hold dear as Americans. Through more than a decade of combat, over air, land, and sea, these proud Americans upheld the highest traditions of our Armed Forces.

As a grateful Nation, we honor more than 58,000 patriots—their names etched in black granite—who sacrificed all they had and all they would ever know. We draw inspiration from the heroes who suffered unspeakably as prisoners of war, yet who returned home with their heads held high. We pledge to keep faith with those who were wounded and still carry the scars of war, seen and unseen. With more than 1,600 of our service members still among the missing, we pledge as a Nation to do everything in our power to bring these patriots home. In the reflection of The Wall, we see the military family members and veterans who carry a pain that may never fade. May they find peace in knowing their loved ones endure, not only in medals and memories, but in the hearts of all Americans, who are forever grateful for their service, valor, and sacrifice.

In recognition of a chapter in our Nation's history that must never be forgotten, let us renew our sacred commitment to those who answered our country's call in Vietnam and those who awaited their safe return. Beginning on Memorial Day 2012, the Federal Government will partner with local governments, private organizations, and communities across America to participate in the Commemoration of the 50th Anniversary of the Vietnam War—a 13-year program to honor and give thanks to a generation of proud Americans who saw our country through one of the most challenging missions we have ever faced. While no words will ever be fully worthy of their service, nor any honor truly befitting their sacrifice, let us remember that it is never too late to pay tribute to the men and women who answered the call of duty with courage and valor. Let us renew our commitment to the fullest possible accounting for those who have not returned. Throughout this Commemoration, let us strive to live up to their example by showing our Vietnam veterans, their families, and all who have served the fullest respect and support of a grateful Nation.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 28, 2012, through November 11, 2025, as the Commemoration of the 50th Anniversary of the Vietnam War. I call upon Federal, State, and local officials to honor our Vietnam veterans, our fallen, our wounded, those unaccounted for, our former prisoners of war, their families, and all who served with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of May, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.

[FR Doc. 2012–13514
Filed 5–31–12; 11:15 am]
Billing code 3295–F2–P

Presidential Documents

Proclamation 8830 of May 25, 2012

National Hurricane Preparedness Week, 2012

By the President of the United States of America

A Proclamation

Every year, hurricanes put communities at risk of catastrophic damage from storm surges, flooding, high winds, and tornadoes. During National Hurricane Preparedness Week, we rededicate ourselves to preventing loss of life and damage to property by raising awareness about hurricane hazards and taking action to protect our families, our homes, and our neighborhoods.

My Administration is working hand-in-hand with communities and State and local officials to take necessary steps to prepare before storms strike. With the National Oceanic and Atmospheric Administration's National Hurricane Center, we continue to advance accurate tropical storm forecasting that gives individuals more time to get out of harm's way. And through the Federal Emergency Management Agency, we are collaborating with partners across all levels of government and throughout the private and nonprofit sectors to develop robust systems for disaster preparedness, response, and recovery. By engaging voices not only at the State and national levels, but also within neighborhoods, we empower communities across America to identify their unique needs and existing resources that may be used to address them.

A community-based approach to emergency management begins with an informed public. This week, I encourage all Americans living in areas that could be impacted by a hurricane to prepare by creating an emergency supply kit, learning evacuation routes, and developing a family communications plan to help ensure loved ones can find one another before and after a severe storm. If a hurricane is approaching, take shelter immediately, follow the directions of State and local officials, and evacuate if instructed. To learn more and find additional resources on how to prepare for and respond to severe weather, visit www.Ready.gov and www.Weather.gov.

As we mark the beginning of hurricane season, let us recommit to ensuring the safety of our loved ones and our communities, and to building a stronger, more resilient Nation.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 27 through June 2, 2012, as National Hurricane Preparedness Week. I call upon government agencies, private organizations, schools, media, and residents in the coastal areas of our Nation to share information about hurricane preparedness and response to help save lives and protect communities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of May, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.

[FR Doc. 2012–13515
Filed 5–31–12; 11:15 am]
Billing code 3295–F2–P

Presidential Documents

Proclamation 8831 of May 25, 2012

Prayer for Peace, Memorial Day, 2012

By the President of the United States of America

A Proclamation

Our Nation endures and thrives because of the devotion of our men and women in uniform, who, from generation to generation, carry a burden heavier than any we may ever know. On Memorial Day, we honor those who have borne conflict's greatest cost, mourn where the wounds of war are fresh, and pray for a just, lasting peace.

The American fabric is stitched with the stories of sons and daughters who gave their lives in service to the country they loved. They were patriots who overthrew an empire and sparked revolution. They were courageous men and women who strained to hold a young Union together. They were ordinary citizens who rolled back the creeping tide of tyranny, who stood post through a long twilight struggle, who saw terror and extremism threaten our world's security and said, ''I'll go.'' And though their stories are unique to the challenges they faced, our fallen service members are forever bound by a legacy of valor older than the Republic itself. Now they lay at rest in quiet corners of our country and the world, but they live on in the families who loved them and in the soul of a Nation that is safer for their service.

Today, we join together in prayer for the fallen. We remember all who have borne the battle, whose devotion to duty has sustained our country and kept safe our heritage as a free people in a free society. Though our hearts ache in their absence, we find comfort in knowing that their legacy lives on in all of us—in the security that lets us live in peace, the prosperity that allows us to pursue our dreams, and the love that still beats in those who knew them. May God bless the souls of the venerable warriors we have lost, and may He watch over the men and women who serve us now. Today, tomorrow, and in perpetuity, let us give thanks to them by remaining true to the values and virtues for which they fight.

In honor of all of our fallen service members, the Congress, by a joint resolution approved May 11, 1950, as amended (36 U.S.C. 116), has requested the President issue a proclamation calling on the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the people of the United States might unite in prayer. The Congress, by Public Law 106–579, has also designated 3:00 p.m. local time on that day as a time for all Americans to observe, in their own way, the National Moment of Remembrance.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim Memorial Day, May 28, 2012, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11:00 a.m. of that day as a time to unite in prayer. I also ask all Americans to observe the National Moment of Remembrance beginning at 3:00 p.m. local time on Memorial Day.

I request the Governors of the United States and the Commonwealth of Puerto Rico, and the appropriate officials of all units of government, to direct that the flag be flown at half-staff until noon on this Memorial Day on all buildings, grounds, and naval vessels throughout the United States

and in all areas under its jurisdiction and control. I also request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of May, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.

[FR Doc. 2012–13516
Filed 5–31–12; 11:15 am]
Billing code 3295–F2–P

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Federal Register

Vol. 77, No. 106

Friday, June 1, 2012

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Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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CFR PARTS AFFECTED DURING JUNE

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.

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*.

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's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

H.R. 2072/P.L. 112–122
Export-Import Bank Reauthorization Act of 2012 (May 30, 2012; 126 Stat. 350)
Last List May 31, 2012

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JUNE 2012

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	21 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	35 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
June 1	Jun 18	Jun 22	Jul 2	Jul 6	Jul 16	Jul 31	Aug 30
June 4	Jun 19	Jun 25	Jul 5	Jul 9	Jul 19	Aug 3	Sep 4
June 5	Jun 20	Jun 26	Jul 5	Jul 10	Jul 20	Aug 6	Sep 4
June 6	Jun 21	Jun 27	Jul 6	Jul 11	Jul 23	Aug 6	Sep 4
June 7	Jun 22	Jun 28	Jul 9	Jul 12	Jul 23	Aug 6	Sep 5
June 8	Jun 25	Jun 29	Jul 9	Jul 13	Jul 23	Aug 7	Sep 6
June 11	Jun 26	Jul 2	Jul 11	Jul 16	Jul 26	Aug 10	Sep 10
June 12	Jun 27	Jul 3	Jul 12	Jul 17	Jul 27	Aug 13	Sep 10
June 13	Jun 28	Jul 5	Jul 13	Jul 18	Jul 30	Aug 13	Sep 11
June 14	Jun 29	Jul 5	Jul 16	Jul 19	Jul 30	Aug 13	Sep 12
June 15	Jul 2	Jul 6	Jul 16	Jul 20	Jul 30	Aug 14	Sep 13
June 18	Jul 3	Jul 9	Jul 18	Jul 23	Aug 2	Aug 17	Sep 17
June 19	Jul 5	Jul 10	Jul 19	Jul 24	Aug 3	Aug 20	Sep 17
June 20	Jul 5	Jul 11	Jul 20	Jul 25	Aug 6	Aug 20	Sep 18
June 21	Jul 6	Jul 12	Jul 23	Jul 26	Aug 6	Aug 20	Sep 19
June 22	Jul 9	Jul 13	Jul 23	Jul 27	Aug 6	Aug 21	Sep 20
June 25	Jul 10	Jul 16	Jul 25	Jul 30	Aug 9	Aug 24	Sep 24
June 26	Jul 11	Jul 17	Jul 26	Jul 31	Aug 10	Aug 27	Sep 24
June 27	Jul 12	Jul 18	Jul 27	Aug 1	Aug 13	Aug 27	Sep 25
June 28	Jul 13	Jul 19	Jul 30	Aug 2	Aug 13	Aug 27	Sep 26
June 29	Jul 16	Jul 20	Jul 30	Aug 3	Aug 13	Aug 28	Sep 27