in accordance with a program approved by the Administrator in the operations specifications.

(b) * * *

(4) The FAA operations specification permitting the operator to use an approved minimum equipment list is carried aboard the aircraft. An approved minimum equipment list, as authorized by the operations specifications, constitutes an approved change to the type design without requiring recertification.

* * * * *

(7) The aircraft is operated under all applicable conditions and limitations contained in the minimum equipment list and the operations specification authorizing the use of the list.

■ 19. Revise § 129.15 to read as follows:

§ 129.15 Flightcrew member certificates.

Each person acting as a flightcrew member must hold a certificate or license that shows the person's ability to perform duties in connection with the operation of the aircraft. The certificate or license must have been issued or rendered valid by:

(a) The State in which the aircraft is registered; or

(b) The State of the Operator, provided that the State of the Operator and the State of Registry have entered into an agreement under Article 83*bis* of the Convention on International Civil Aviation that covers the aircraft.

Appendix A to Part 129 [Removed and Reserved]

■ 20. Remove and reserve appendix A to part 129.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 21. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 41706, 44701, 44702, 44705, 44709, 44711, 44713, 44715, 44717, 44722, 46105.

§ 135.127 [Amended]

■ 22. Amend § 135.127 in paragraphs (b)(1)(iii) and (b)(2) introductory text by removing the citation "§ 119.3" and adding the citation "§ 110.2" in its place.

Issued in Washington, DC, on January 31, 2011.

J. Randolph Babbitt,

Administrator.

[FR Doc. 2011–2834 Filed 2–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

RIN 0625–AA66

[Docket No.: 0612243022–1049–01]

Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule

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

ACTION: Interim final rule and request for comments.

SUMMARY: The Department of Commerce ("the Department") is amending its regulation which governs the certification of factual information submitted to the Department by a person or his or her representative during antidumping ("AD") and countervailing duty ("CVD") proceedings. The amendments are intended to strengthen the current certification requirements. For example, these amendments revise the certification in order to identify to which document the certification applies, to identify to which segment of an AD/CVD proceeding the certification applies, to identify who is making the certification, and to indicate the date on which the certification was made. In addition, the amendments are intended to ensure that parties and their counsel are aware of potential consequences for false certifications. The Department is also requesting comments on this interim final rule.

DATES: The effective date of this interim final rule is March 14, 2011. This interim final rule will apply to all investigations initiated on the basis of petitions filed on or after March 14, 2011, and other segments of AD/CVD proceedings initiated on or after March 14, 2011.

Request for Public Comment: The Department seeks public comment on this interim final rule. To be assured of consideration, comments must be received no later than May 11, 2011 and rebuttal comments must be received no later than June 27, 2011. All comments should refer to RIN 0625–AA66. The Department intends to issue a final rule no later than nine months after the publication of this interim final rule.

ADDRESSES: All comments must be submitted through the Federal eRulemaking Portal at *http://www.regulations.gov*, Docket No. ITA–2010–0007, unless the commenter does not have access to the internet. Commenters that do not have access to the internet may submit the original and two copies of each set of comments by mail or hand delivery/courier. All comments should be addressed to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, Room 1870, Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230.

The Department will consider all comments received before the close of the comment period. The Department will not accept comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. All comments responding to this notice will be a matter of public record and will be available for inspection at Import Administration's Central Records Unit (Room 7046 of the Herbert C. Hoover Building) and on the Federal eRulemaking Portal at *www.Regulations.gov*. and the Department's Web site at *http://www.trade.gov/ia/*.

Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482–0866, e-mail address: *webmaster-support@ita.doc.gov.*

FOR FURTHER INFORMATION CONTACT: William Isasi, Senior Attorney, Office of the General Counsel, Office of Chief Counsel for Import Administration, or Myrna Lobo, International Trade Compliance Analyst, Office 6, Import Administration, U.S. Department of Commerce, 1401 Constitution Ave., NW., Washington, DC 20230, 202–482–4339 or 202–482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

Section 782(b) of the Tariff Act of 1930, as amended, ("the Act") requires that any person providing information to the Department during an AD/CVD proceeding must certify to the accuracy and completeness of such information. 19 U.S.C. 1677m(b). Department regulations set forth the specific content requirements for such certifications. 19 CFR 351.303(g). The current language of the certification requirements does not address certain important issues. For example, the current language does not require the certifying official to specify the document or the proceeding for which the certification is submitted, or even the date on which the certification is signed.

Therefore, on January 26, 2004, the Department published a notice of inquiry in the **Federal Register**, and inquired as to whether the current certification requirements are sufficient to protect the integrity of Import Administration's ("IA") administrative processes and, if not, whether the current certification statements should be amended or strengthened and, if so, how. *See Certification and Submission of False Statements to Import Administration During Antidumping and Countervailing Duty Proceedings-Notice of Inquiry,* 69 FR 3562 (January 26, 2004) ("*Notice of Inquiry*").

Based on the comments received in response to the *Notice of Inquiry,* the Department published a Notice of Proposed Rulemaking and Request for Comments in the **Federal Register**, proposing to amend the current regulation, which governs the certification of factual information submitted to the Department. *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings-Notice of Proposed Rulemaking and Request for Comment,* 69 FR 56738 (September 22, 2004) ("*Notice of Proposed Rulemaking*"). The Department proposed specific boilerplate language for the certifications and requested comments on the proposed amendment.

The Department received 16 submissions in response to the *Notice of Proposed Rulemaking* through December 7, 2004. The submissions included a wide variety of positions. Some commenters were opposed to the amendments, others supported the amendments, and many provided general recommendations for amending the certification requirements, as well as comments suggesting specific changes in the text of the certifications. In addressing these comments, the Department notes that at least one commenter has requested a hearing. The Administrative Procedure Act does not require the Department to hold a hearing. 5 U.S.C. 553. Given the numerous detailed submissions received from a variety of parties, the Department finds a hearing unnecessary. After evaluating the comments, the Department decided that additional consultation with the Office of Inspector General and the Department of Justice was necessary in order to ensure that all concerns could be adequately addressed. Furthermore, because it has been several years since we last received comments on the proposed changes to the certification requirements, we have decided, as set forth above, to implement these changes through an interim final rule, thereby affording parties an additional opportunity to comment on these regulations.

Analysis of Comments

General Comments on Proposed Changes To the Certification

1. The Department's Authority To Change the Certification

Multiple commenters questioned whether the Department has authority to change the certification. In particular, one commenter argued that section 782(b) of the Act explicitly provides the nature of the certification to be rendered, namely, the certification is to be provided by the "person providing factual information," and the person must certify "to the best of that person's knowledge." This commenter concluded that in changing the certification requirements the Department may be expanding the certification obligation beyond that established by Congress and, thus, acting inconsistently with the law.

Response: The amendments to the certification that the Department has adopted in this notice do not expand the legal obligations set out in the Act. Rather, these amendments serve to identify more specifically the document to which a certification applies and to note the penalty that already exists in the law for providing false statements to the Government, including false certifications. In this regard, the Department has updated the language in the certification to more closely track the language found in Section 782(b) of the Act.

2. Equal Application to All Parties

One commenter argued that any new certification requirements should apply equally to petitioners and respondents.

Response: All parties submitting factual information to the Department must comply with the certification requirements including respondents and petitioners.

3. Date of Signature on the Certification

The Department proposed to require new certifications to include the specific date on which the submitted information is certified. Most commenters did not oppose this proposal. Other commenters argued that the requirement was unnecessary, but did not oppose it. Some commenters opposed the date requirement for company/government certifications, noting that certifications are sometimes signed a few days before the date of the submission itself, and argued that this could cause confusion with respect to what date to use on the certification. Further, they argued that this requirement could be burdensome to companies that are making multiple filings simultaneously. These commenters, however, did not oppose the date requirement for the representative certification, but recommended requiring the date to be noted only once in the certification.

Response: Because there were no substantive objections to including the signature date on the certification, the Department will require it on the certification. The Department does not agree with the logistical concerns raised (*e.g.,* confusion arising from certifications being signed and dated prior to filing date). Certifications should be dated the day they are signed and, assuming a submission is completed prior to filing date, certifications may be signed and dated prior to filing date. Finally, the Department agrees that certifications only need to be dated once on the date of signature, and we have altered the certifications accordingly.

4. Identification of the Particular Submission to which the Certification Applies

The Department proposed that certifications should identify the specific material to which the person is certifying. Most commenters did not oppose this proposed change. For example, one commenter supported the proposed change because, in their experience, a certifying official sometimes signed "blank checks" for multiple future submissions that the official may not read. This commenter argued that identifying the actual submission would prevent this practice. Commenters who opposed this requirement argued that this requirement was redundant because certifications apply to the submissions to which they are attached.

Response: Because there were no substantive objections to identifying the submission to which the certification pertains, the Department has decided to adopt this change to the certification. This revision is intended to ensure that the signer is aware of the exact submission to which he or she is certifying and for which he or she is responsible. In addition, this provision will help to prevent the use of a generic "blank check" certification that could simply be copied and attached to a submission irrespective of whether the signer had reviewed the submission. Further, identifying the submission to which a certification applies would assist in linking the certification to its

submission in the event that the certification became detached.

5. Level of Accuracy and Completeness Contemplated by the Certification

One commenter argued that the Department must ensure that the new certification includes definitions that are sufficiently broad to cover all violations that may have a material effect on the outcome under the specific facts and circumstances of the segment [1] of the AD/CVD proceeding in which the certification is submitted. This commenter argued that the definition should not only include the knowing submission of false information, but also the failure to take reasonable care in assuring the completeness and accuracy of information. Multiple commenters argued that the Department should only impose well-defined standards on parties; otherwise the certification requirements would impose unfairly vague legal standards. In addition, and as noted *infra* at *Comment 17,* many parties submitted comments on defining the level of inquiry a representative must undertake to determine whether a submission is accurate and complete before certifying the submission.

Response: The Department has not adopted the commenters' proposal. We disagree that additional definitions regarding the level of accuracy and completeness are needed. The correct standard to which parties are held is the standard provided in the Act. *See* section 782(b) of the Act. Furthermore, we believe the certification language is sufficiently precise to accomplish the purpose intended and, thus, there is no need to include additional definitions. *See* 19 CFR 351.304(g).

6. Specification of Enforcement Procedures

In the proposed revisions to the certification regulation, the Department did not specify the enforcement procedures that would be available. Some commenters argued that in order for the certifications to be effective, the Department must establish specific enforcement procedures. For example, one commenter argued that the Department should specify its procedures for conferring with the Inspector General's Office and law enforcement agencies, such as the Department of Justice. This commenter also argued that the Department should formulate guidelines that permit the Department to maintain records to be used in any investigation of misconduct rather than allowing a company to terminate participation and withdraw its submissions. Further, this commenter argued that the Department should draft regulations for investigation of inaccurate or incomplete factual information that mirror those outlined in the Department's regulations for violations of administrative protective orders.

Response: The Department has not adopted the commenters' proposal to establish enforcement procedures. As explained *supra* at *Comment 1,* the amended certifications serve to clarify and strengthen already existing obligations regarding the submission of information to the Department. The inclusion of a warning pursuant to 18 U.S.C. 1001 in the revised certification makes plain the consequences of a false certification. These consequences were implicit under the previous certification requirement. The inclusion of this warning does not indicate that the Department thinks it is necessary to establish comprehensive enforcement procedures for certification violations. Rather, certification violations would continue to be referred to the appropriate offices better equipped to handle such matters, such as the Department's Office of the Inspector General. These offices would employ their normal procedures for handling possible violations of 18 U.S.C. 1001. Additionally, we note that unlike our statutory authority to promulgate Administrative Protective Orders which includes an enforcement authority (*see* 19 U.S.C. 1677f(c)), there is no specific statutory authority for the Import Administration, itself, to investigate and impose sanctions with respect to certification violations, except through those available more broadly to the Inspector General's Office. *See also* 19 CFR part 354.

With regard to concerns that parties may withdraw information from the record of the AD/CVD proceeding, the Department notes, as an initial matter, that it does not permit parties to withdraw public submissions from the record of AD/CVD proceedings. While the Department does permit parties to withdraw business proprietary submissions from the record of AD/CVD proceedings, the Department intends, where necessary, to preserve business proprietary submissions in order to determine whether a false certification has been filed. The Department may preserve these submissions pursuant to its general authority to protect its administrative process. Thus, while a party may terminate participation in an AD/CVD proceeding and withdraw its business proprietary submissions, such a withdrawal of submissions would only apply to the AD/CVD proceeding, and not the Department's investigation of a false certification. The Department has updated the certification language in order to ensure that parties are aware that the Department may preserve business proprietary submissions to investigate false certifications even if a party withdraws its submissions from an AD/CVD proceeding.

7. Specification of Sanctions

The Department proposed including in the certification a reference to criminal sanctions that exist under 18 U.S.C. 1001 for those individuals who knowingly make misstatements to the U.S. Government. One commenter supported this proposal, arguing that reference to 18 U.S.C. 1001 underscored the seriousness of falsely certifying a factual submission. Multiple commenters argued that the Department must establish additional specific sanctions in order for the certifications to be effective. For example, one commenter argued that sanctions should include referring the matter for criminal prosecution, subjecting companies to full scale audits, barring company officials from future certifications, imposing adverse facts available, and barring representatives from practicing before the Department.

Another commenter generally agreed with the proposal but noted that the language referenced 18 U.S.C. 1001, but not the rules of professional conduct. This commenter suggested that it would also be useful to indicate that false statements would be referred to the appropriate bar association. One commenter opposed the proposal, arguing that by characterizing 18 U.S.C. 1001 as applying to knowingly made misstatements, the Department's proposal over-reaches because the statute deals only with "material" matters. Further, subsection (b) of 18 U.S.C. 1001 excludes from the scope of subsection (a) representations made in the context of a judicial proceeding. According to this commenter, this exclusion was created to avoid chilling advocacy in judicial fora and because there were already statutes addressing and punishing those who willfully mislead the judicial branch. The commenter concluded that these exemptions were equally applicable to proceedings before the Department.

This commenter also argued that, under the WTO Agreements, the United States had agreed on the consequences to interested parties who fail to

[1] An AD/CVD proceeding consists of one or more segments. For example, an AD or CVD investigation, an administrative review of the resulting AD/CVD order, and a scope inquiry under the AD/CVD order each would constitute a segment of the proceeding. *See* 19 CFR 351.102 ("Segment of proceeding").

cooperate with investigating authorities, *i.e.,* Article 6.8 of the Agreement on Implementation of Article VI of the GATT 1994 (the Antidumping Agreement)—adverse facts available. Thus, this commenter concluded that application of 18 U.S.C. 1001 is a remedy beyond that which the WTO Agreements permit. Another commenter argued that the reminder in the certification did not accurately reflect 18 U.S.C. 1001. This commenter noted that the law provides criminal sanctions for "false, fictitious, or fraudulent statements" rather than "misstatements" as noted in the proposed certification. Another commenter argued that, given the sanctions available in the AD/CVD proceeding and the code of professional conduct governing legal counsel, it was doubtful whether any legitimate purpose could be served by recourse to criminal sanctions. This commenter was concerned that such sanctions could deter parties from submitting information, the accuracy of which cannot be absolutely certified (*e.g.,* information from sub-contractors).

Response: The Department has made changes to its proposed certification based on these comments. First, the Department agrees with those commenters that argued that the text of the certification should follow more precisely the statutory language found in 18 U.S.C. 1001, and we have updated the text of the certification accordingly. Additionally, we have added a reference to 18 U.S.C. 1001 which reminds parties that serious consequences exist for false certifications, thereby strengthening the certification process. The Department disagrees, however, with those commenters that argue the Department should adopt specific sanctions. The Department does not have the authority or resources to create independent sanctions for false certifications. Sanctions for false certifications will be determined by the offices to which the Department refers alleged certification violations under 18 U.S.C. 1001 (*e.g.,* the Department's Office of the Inspector General). However, if a party is found to have violated 18 U.S.C. 1001, the Department reserves the right to protect its administrative process through appropriate steps.

The Department also disagrees that the judicial exception found in 18 U.S.C. 1001(b) is applicable to AD/CVD proceedings before the Department. The terms of this exception apply only to judicial proceedings, and not Executive Branch agency proceedings.

The Department disagrees with the arguments related to the WTO Agreements, including Article 6.8 of the Antidumping Agreement. Including a reference in the certifications to the U.S. Government's standard admonition regarding false statements in no way contravenes the United States' obligations under the WTO Agreements. This is a common reference included in many Government agencies' forms. This reference promotes the integrity of the Government's administrative processes. The Department also disagrees that Article 6.8 of the Antidumping Agreement limits the Government's ability to protect the integrity of its administrative process.

With regard to referring matters to state bar associations, it is not the Department's general practice to become involved in proceedings before state bar associations regarding allegations of attorney misconduct. Such efforts could result in excessive expenditures of time and personnel. Notwithstanding the Department's general practice, the Department reserves the right to refer matters to state bar associations when the Department determines that the circumstances warrant such a referral.

With regard to arguments that the Department should impose adverse facts available under Section 776 of the Act for false certifications, the Department notes that filing a false certification could result in the application of adverse facts available for a respondent. 19 U.S.C. 1677e. For example, false certifications could result in unverifiable information and could signify that a respondent had failed to cooperate to the best of its ability within the meaning of Section 776 of the Act. In such instances where the criteria in Section 776 of the Act are met, the Department could apply adverse facts available in its determination.

With regard to arguments pertaining to the submission of third party information (*e.g.,* information from sub-contractors), the culpability standards established in 18 U.S.C. 1001 that require, for example, actions made knowingly and willfully, provide relevant protections. Furthermore, the Department notes that this standard has been successfully applied to parties submitting information to the Government in a wide variety of circumstances and the Department expects that this standard is equally workable in an AD/CVD proceeding.

Comments on Proposed Changes to the Company/Government Certification

8. Requirement for Companies To Keep Signed Original Certifications in its "Official Records"

The Department proposed including an obligation for certifying company officials to maintain the original certification in their company's official records. Many commenters did not oppose this suggestion. One commenter argued that using the phrase "official records" unduly complicates the matter, while another commenter stated that this requirement had no practical utility and does not improve the accuracy or completeness of a factual submission. Additionally, this latter commenter stated the term "official records" was undefined and unclear. Moreover, this commenter argued that it was unclear how long a company must maintain the original in its records. Another commenter argued that companies may prefer legal counsel to maintain the original copy of the certifications, in which case providing the Department with original documents could violate attorney-client privilege.

Response: Some commenters argued that requiring original certifications to be filed with submissions is unduly burdensome. *See Comment 14 infra* (describing this argument in more detail). The Department finds that requiring the originals to be available for inspection strikes a reasonable balance between the need for the Department to be able to verify the original certifications without placing a burden on parties to file original certifications with each submission. This is no different than the requirement that respondent companies and governments retain original source documentation for Department officials to examine during the course of on-site verifications.

However, in order to avoid any confusion regarding both the definition of "official business records" and the time period for which parties are responsible for maintaining originals, we have revised the certification to state: "* * * I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials." Thus, parties are required to maintain the original certifications in a manner that allows the Department to review them during any verification pursuant to 782(i) of the Act. 19 U.S.C. 1677m(i). Alternatively, the Department could require parties, on a case-by-case basis, to send the original to the Department after the submission has been filed. In addition, parties need to retain the originals for a five-year period commencing with the filing of the document. This five-year period is consistent with the statute of limitations for prosecution under 18 U.S.C. 1001. *See* 18 U.S.C. 3282.

With regard to the commenter's concern about possible violations of attorney-client privilege, the

Department is specifically requesting that companies and governments, and not legal counsel, maintain the company's or government's original certifications. Thus, maintenance of the certifications should not implicate attorney-client privilege.

9. Requirement To List Person(s) Officially Responsible for Presentation of the Factual Information

The Department proposed that the person(s) officially responsible for the presentation of factual information certify that he or she "had sole or substantial responsibility for preparation (or the supervision of the preparation) of the submission and have a reasonable basis to formulate an informed judgment as to the accuracy and completeness of the information contained in the submission." One commenter argued that this proposal was necessary because the current certification provides no assurance that the certifying official has any real knowledge of the underlying facts to which they are certifying. Many commenters did not object to this proposal. Some commenters argued that the term "substantial responsibility," "reasonable basis" and "informed judgment" were sufficiently vague to subject parties to uncertain legal standards. In addition, one commenter argued that submissions in AD/CVD cases can involve many thousands of pages of data, obtained from many sources, including related companies. As a result, it is unrealistic to expect one person to ensure total accuracy. Another commenter argued that this proposal raised problems because it assumes a strict supervisory hierarchy in companies (or governments) when often such a hierarchy is not clearly discernable. In such instances, it would be difficult for any person to provide a certification with regard to supervision of others significantly involved in the preparation of a submission.

Response: The Department is obligated to calculate AD/CVD margins as accurately as possible. *Rhone Poulenc, Inc.* v. *United States,* 899 F. 2d 1185, 1191 (Fed. Cir. 1990). To accomplish this task, the Department must be presented with accurate and complete information and, thus must hold parties responsible for submitting accurate and complete information. In this regard, it would be ineffective for the Department to have numerous individuals held accountable for certain portions of a submission. *See also Comment 10 infra.* In such circumstances, it could be very difficult for the Department to hold a person(s) responsible for his or her certification because that person could argue that any inaccuracies or incompleteness were attributable to another person responsible for another portion of the submission. In addition, it is important that the information, as a whole, be evaluated for accuracy and completeness. Permitting piecemeal certifications would allow parties to present information to the Department without ever engaging in this overall evaluation. Rather, in order for a certification to be effective, there must be an individual (or a very limited number of individuals) [2] to hold accountable for the accuracy and completeness of the entire submission based on that person(s)'s knowledge of the entire submission. The person(s) that the submitting party has identified as accountable for the accuracy and completeness of the entire submission should complete the certification.

The Department disagrees with the argument that is premised on a lack of hierarchies in companies or governments. It has not been the Department's experience that companies and governments are unable to identify a responsible person(s) to complete certifications due to a lack of hierarchy in their organizational structures. In order to function, companies and governments must both establish clear chains of authority. The Department expects that companies and governments will consider these chains of authority when identifying the party(s) responsible for the submission of factual information. Accordingly, the Department has not made any changes to the proposed certification based on these comments.

10. Requirement To List on Certifications Other Individuals With Significant Responsibility for Preparation of Part or All of the Submission

The Department proposed including within the certification a list of all individuals with significant responsibility for part or all of the submission. Several comments were received in response to this proposal. Some commenters stated that it raised issues of confidentiality/business proprietary information to include such a list. Many commenters argued that there would be varying opinions as to what "significant responsibility" means, while others said it would be burdensome to identify all such persons in cases of large companies that sometimes rely on hundreds of staff members for the preparation of questionnaire responses. In this regard, one commenter argued that in CVD investigations, the proposed certification would be quite onerous because of the multiple levels of government and many responding departments and agencies. One commenter noted that this requirement would add a burden without appearing to add anything of substance to the certification process because under the current certification an official must already attest to the accuracy of the submission. Another commenter argued that the list would rapidly become outdated as personnel left the company. One commenter inquired if the requirement would include company officials who prepared financial statements.

Response: Based on the concerns raised by these commenters, the Department has decided not to adopt the requirement to list in the certification other individuals with significant responsibility for preparing the submission. The Department agrees that referring to numerous other individuals in the certification may create ambiguity with respect to the primary responsibility of the person(s) officially responsible for the presentation of the factual information to certify the accuracy and completeness of the entire submission. *See Comment 9 supra.* Additionally, this would require us to define what constitutes "significant responsibility" and what constitutes "part * * * of a submission," *e.g.,* one piece of information, two pieces of data, etc. Also, this requirement could easily become overly burdensome. In order for this proposal to have value, each person responsible for a significant portion of a submission would have to sign the certification and identify the particular portion of the submission for which he or she was responsible. When a submission contains a great deal of information, assigning each portion of a submission to persons and collecting the corresponding signatures could prove complicated and time consuming. For these reasons, the Department has deleted this proposed requirement.

[2] While it is optimal to have only one person sign the certification, the Department recognizes that sometimes this could be impossible because of the size or organization of a company or government. For instance, if different subsidiaries from a multinational company were presenting information to the Department in one submission, there may be more than one person officially responsible for presenting the information. The Department expects that this situation would be the exception rather than the rule. Under such circumstances, the Department expects the persons to work together to ensure the accuracy and completeness of the entire submission, rather than only certifying to a portion of the submission.

11. Application of Certification to Affiliated Party Submissions

One commenter argued that the proposed changes do not address whether certification requirements apply to submissions containing information from affiliated parties.

Response: The amended regulation does not change the current requirement with regard to submissions containing information from affiliated parties. That is, information presented to the Department, including information a party acquires from an affiliate, must include a factual certification.[3] If one person is unable to certify to the accuracy and completeness of a submission, this regulation allows for multiple parties to sign the certification. However, as discussed above, the Department expects such circumstances to be the exception rather than the rule. *See Comment 9 supra.*

12. Whether the Certification Is Deemed To Be "Continuing in Effect"

The Department proposed requiring the signer to certify that he or she is aware that the certification is deemed to be continuing in effect, such that the signer must notify the Department in writing, if at any point during the segment of the proceeding, he or she possessed knowledge or had reason to know of any material misrepresentation or omission of fact in the submission or in any previously certified information upon which the submission relied. One commenter argued that this proposal strengthened the certification requirements. Another commenter supported the proposal generally because it would help the Department obtain the most complete and accurate record feasible. However, this commenter was concerned that a party might use this continuing obligation to submit corrections beyond the normal deadlines enumerated by the Department. In addition, this commenter stated that, consistent with 19 CFR 351.301(c), the Department should allow other interested parties an opportunity to comment when a party notifies the Department of material misrepresentations or omissions of facts.

Other commenters raised concerns that the proposal was vague in so far as: It was unclear how quickly the certifying official must notify the Department of the misrepresentation or omission of fact; it was unclear how the Department would determine that parties had failed to meet their ongoing obligation, including whether the Department would conduct such a determination at verification; it was unclear what burden of proof the Department would apply in order to determine whether a party had complied with this continuing obligation; it was unclear whether this continuing obligation continued even when the company was no longer participating in the AD/CVD proceeding or when the employee was no longer working at the company. In addition, one commenter expressed concern that the Department's inquiries on whether the errors constituted "material misrepresentation or omission of fact" could be burdensome and incommensurate with the errors or omissions because, in the vast majority of instances, the errors or omissions are inadvertent. Another commenter argued that this obligation could impose an individual duty on employees to report errors or omissions in violation of contractual, ethical or legal obligations.

Response: The Department has decided that adding the proposed language does not strengthen the certification requirement because the obligation to report material misrepresentations or omissions of fact already exists. First, this requirement is implicit in the certification requirement found in Section 782(b) of the Act. Additionally, this requirement is implicit in the verification requirements found in Section 782(i) of the Act. 19 U.S.C. 1677m(i); *see also* 19 CFR 351.307(b). Generally speaking, in order for the Department to use information in an AD/CVD proceeding, it needs to be verifiable, and information that contains a material misrepresentation or omission would not be verifiable. Therefore, the proposed language is not adopted in this interim final rule.

13. Applicability to Governments

One commenter requested clarification of whether this proposed regulation applies to foreign governments. This commenter argued that there is an inconsistency between the text of the regulation, which refers to a requirement that certifications need to be filed by the "person(s) officially responsible for presentation of factual information," and the text of the certification itself, which covers a "company certification" to be filed by someone "employed by (COMPANY NAME)," and does not cover submissions by foreign governments. Another commenter argued that changes to the current certification requirements with regard to governments were unnecessary because government officials are presumed to provide accurate information.

Response: The Act does not provide an exception from the certification requirement for information presented by governments. Thus, for example, in CVD proceedings where a government is an interested party and presents information to the Department, the certification requirement applies. The text of the company/government certification has been amended to include the term "GOVERNMENT" which clarifies that it is applicable to both companies and governments. That is, the title of the company/government certification now reads "COMPANY/GOVERNMENT CERTIFICATION"; the first sentence of this certification now includes "employed by COMPANY NAME or GOVERNMENT"; and the first sentence of the counsel/representative certification now includes "counsel or representative to COMPANY OR GOVERNMENT OR PARTY."

Comments on Proposed Changes to the Representative Certification

14. Requirement for Representatives To Submit Signed Original Certifications to the Department

The Department proposed that legal or other representatives must file original certifications with the Department and must maintain a copy of the certification in their records during the pendency of the AD/CVD proceeding. One commenter argued that there are circumstances in which submitting an original certification would be impractical. For example, when the filing attorney is not in Washington on the filing date, that attorney may need to fax or send a PDF copy of the submission to Washington for filing.

Response: Based on these comments as well as those described *supra* at *Comment 8,* the Department has decided that requiring an original to be filed may be overly burdensome. Common technology (*e.g.,* fax machines and email) allows the certifying representative to review documents, even on filing day, without being physically located in Washington. Under such circumstances, it may be impossible to file an original certification with the Department. Consistent with the requirements for company/government certifications, the Department is requiring representatives to maintain original certifications for a five-year period commencing with the filing of the document to which the certification applies.

[3] *See Comment 16 infra* (discussing the narrow exception to the certification requirement when certain information is moved from one segment of a proceeding to another).

15. Requirement To List on the Certification Legal Counsel or Representative that Supervised the Advising, Preparing, or Review of the Submission or Other Individuals With Significant Responsibility for Advising, Preparing, or Reviewing the Submission

The Department proposed that the representative certification include a provision for when the representative "supervised the advising, preparing or reviewing part or all of the submission." There were no specific comments received on this portion of our proposed amendment.

Additionally, the Department proposed including in the representative certification a list of other individuals with significant responsibility for advising, preparing or reviewing part or all of the submission. Many commenters opposed this proposal. One commenter noted that this requirement would interfere with the attorney-work product privilege and argued that the Department and other parties are not entitled to know how a law firm assigns its attorneys and staff to a case, nor which attorneys are providing advice to a client on specific aspects of the submission. This commenter concluded that this proposal would not add to the accuracy and completeness of factual submissions because under the applicable laws and rules of professional responsibility, the supervising attorney is legally responsible for the work of subordinate attorneys and legal staff. Similar to the comments pertaining to the proposal to include a list of other individuals with significant responsibility in company/government certifications, multiple commenters argued that without a definition of "significant responsibility," the proposal was too vague. *See Comment 10 supra.* Another commenter argued that this requirement went far beyond the reasonable goals of traceability and accountability because it would impose a significant burden on top of the already tight deadlines. Moreover, it did not provide additional insurance of accuracy and truthfulness.

Response: The Department has decided not to require representatives to list multiple parties on the certification. As discussed above, in order for a representative certification to be effective, there must be an individual (or very limited number of individuals) [4] responsible for the accuracy and completeness of the entire submission based on that person(s)'s knowledge of the entire submission. *See Comment 9* and *Comment 10 supra.*

16. Whether Representative Certification Is "Continuing in Effect"

The Department proposed requiring the representative to certify that he or she is aware that the certification is deemed to be continuing in effect, such that the signer must notify the Department in writing, if at any point during the segment of the proceeding, he or she possessed knowledge or had reason to know of any material misrepresentation or omission of fact in the submission or in any previously certified information upon which the submission relied. The majority of commenters opposed this proposal. Some commenters were concerned that this continuing obligation could conflict with the attorney's rules of professional conduct, which may include a responsibility to maintain attorney-client confidences (*e.g.,* DC Rules of Professional Conduct 1.6). These commenters noted that the correct response under this rule, if a client is unwilling to rectify a falsehood, is for counsel to withdraw representation, not for the counsel to disclose the falsehood to the Department. This same commenter noted that in many jurisdictions there are rules of professional conduct that prohibit attorneys from knowingly making false statements or assisting their clients in fraudulent conduct (*e.g.,* DC Rules of Prof'l Conduct 3.3, 4.1, and 8.4). Another commenter noted that often information is moved from one segment of proceeding to another. As such, this commenter concluded that, if the certification was going to include a continuing obligation, it should not be limited in duration to one segment of a proceeding. Other commenters noted that increases in the certification requirements for counsel would increase the cost of parties participating in trade remedy proceedings and severely limit the ability of lawyers to represent parties in such proceedings. This commenter also argued that the Department didn't have statutory authority to regulate the professional conduct of attorneys or other representatives.

Response: The Department has decided not to add the proposed language to the representative certification. As discussed above, adding this language does not strengthen the certification requirement because the obligation to report material misrepresentations or omissions of fact already exists. *See Comment 12 supra.* The Department notes that this obligation is to be read in conjunction with a representative's professional responsibilities. *See, e.g.,* D.C. Code of Prof'l Conduct, R. 4.1 (prohibiting an attorney from making false statements to a third person in the course of representing a client); D.C. Code of Prof'l Conduct, R. 3.3 (prohibiting an attorney from offering evidence that the attorney knows is false). The requirement to disclose material misrepresentations or omissions should be interpreted in a manner consistent with a representative's professional responsibilities.

With regard to information moved from the record of one segment of a proceeding to another, the continuing obligation exists in so far as a representative is moving his or her own client's information or otherwise knows that the information contains material misrepresentations or omissions. For example, if counsel for a foreign producer is moving his or her client's questionnaire response from a prior segment to the record of an ongoing segment, counsel must include a certification with this questionnaire response. If, however, counsel is placing another party's information on the record, no certification is required. Notwithstanding this exception, if counsel otherwise has a basis to know that the information he or she is moving to the ongoing segment contains material misrepresentations or omissions, the continuing obligation to disclose exists. That is, counsel must never knowingly move information containing material misrepresentations or omissions onto the record of another segment of the proceeding without disclosing these misrepresentations or omissions to the Department. Moreover, if information from a prior review is submitted because it applies to the current segment's entries, it must have a new company/government certification stating it is accurate as to the current segment.

17. Requirement To Make "An Inquiry Reasonable under the Circumstances"

The Department proposed requiring representatives to make an inquiry reasonable under the circumstances before certifying that the submission is accurate and complete. A few commenters generally supported this proposal. For example, one commenter argued that the current certification

[4] While it is optimal to have only one representative sign the certification, the Department recognizes that sometimes this could be impossible because there may be more than one representative officially responsible for a submission. For instance, multiple law firms could submit a document together. The Department expects that this situation would be the exception rather than the rule. Under such circumstances, the Department expects the representatives to work together to ensure the accuracy and completeness of the entire submission, rather than only certifying to a portion of the submission.

requirement permitted certification even when the person certifying knew little about the submission.

Many commenters opposed this proposal. One commenter argued that the proposal was improper because the scope of the reasonable inquiry requirement was vague, particularly in light of the fact that the Department also requires a detailed company/government certification. In this regard, some commenters noted that the Department's discussion in the *Notice of Proposed Rulemaking* conflicts with the proposed text of the certification in so far as the former references "due diligence" while the latter references "a reasonable inquiry under the circumstances." Further, a commenter argued that it was unclear whether the Department contemplates attorneys "auditing" their clients' submissions, comparing submissions made to different agencies, or merely asking questions concerning the sources relied upon to respond to questionnaires. This commenter also noted that there is no precedent or common understanding regarding what constitutes "due diligence" in the context of trade cases. This commenter argued that instead of the obligation imposed by this proposal, the Department should impose an obligation that the attorney "did not consciously disregard other facts and information indicating that a particular submission included false statements or omitted material information." With this language, the Department could clarify that it only intends attorneys to review the information provided rather than searching out potentially conflicting information from other sources. Another commenter noted that the representative certification contemplates a representative that is fully engaged in all aspects of the proceeding, including the submission of factual information. However, representatives may be hired to simply copy and file documents with the Department or to consult on discrete issues. This commenter concluded that under these circumstances it is improper for the Department to require representatives to file certifications.

Another commenter argued that imposing an affirmative duty on attorneys to inquire into the facts provided by clients in conjunction with the obligation to notify the Department of misstatements—particularly in light of the threat of criminal sanctions—could compromise the attorney's professional judgment by placing his or her interests over that of the client. Another commenter noted it was unrealistic for legal representatives to perform such a detailed inquiry given the tight deadlines for filing responses to the Department's request for information, the client's location in a foreign country, and the fact that the source data is often in a foreign language. Another commenter argued that requiring attorneys to conduct such an inquiry would increase costs which, in turn, would decrease legal representation, ultimately resulting in more decisions relying on adverse facts available.

One commenter noted the proposed rule threatens criminal sanctions, but Federal Rule of Civil Procedure 11 ("Rule 11") does not. Furthermore, this commenter noted that, under Rule 11, the attorney may withdraw the offending pleading or motion without further consequences; but no such safeguard is included in the proposal. Additionally, multiple commenters noted in promulgating this rule and the corresponding rule of the Court of International Trade, guidance was explicitly provided regarding the inquiry that was expected. These commenters argued that the Department must provide similar guidance.

Another commenter noted that the Act does not impose the obligation contemplated by this proposal and, as such, the Department has no authority to impose an affirmative obligation on counsel to review the information the client wishes to submit. This commenter stated that, nevertheless, if the Department retains the "reasonable inquiry" requirement, it should mirror this requirement after the IRS regulation, 31 CFR 10.34(c) which permits a practitioner to rely generally in good faith on the information furnished by a client without verifying that information. For similar reasons, another commenter advocated this same standard. Lastly, one commenter stated this requirement would give the Department too much discretion.

Response: The Department has decided not to include this requirement in the representative certification. The proposed language mirrors the language in Rule 11 of the U.S. Court of International Trade. This is not the correct standard to place on representatives in AD/CVD proceedings before the Department. Rather, the correct standard is that which exists in the Act. Specifically, counsel must certify that "the information contained in this submission is accurate and complete to the best of my knowledge." Section 782(b) of the Act. In the event of any alleged violation of the counsel certification requirement, the Department expects that the offices investigating the alleged violations (*e.g.,* the Department's Office of the Inspector General or the Department of Justice) will address the meaning of the terms rather than IA.

The Department disagrees with the argument that a representative need not file a certification when that representative simply copies and files documents. In order to appear as a representative of an interested party in and AD/CVD proceeding, that representative must take on the duties incumbent on a representative. One of those duties includes a duty to certify all information that the representative presents to the Department on behalf of his or her client. If a party is hired to simply copy and file documents for an interested party then that party should not appear as a representative in an AD/CVD proceeding.

Issuance of Interim Final Rule

After analyzing and carefully considering all of the comments that the Department received in response to the *Notice of Proposed Rulemaking* and after further review of the provisions of the proposed rule, the Department is hereby publishing an interim final regulation pertaining to the certifications that must accompany factual submissions in AD/CVD proceedings. This regulation strengthens the certification requirement by requiring parties to identify the submission to which the certification applies; to identify to which segment of an AD/CVD proceeding the certification applies; to identify who is making the certification; to indicate the date on which the certification was made; and to make clear that parties and their representatives are subject to serious consequences for false certifications.[5]

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* the Chief Counsel for Regulation at the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule, if promulgated as final, will not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published with the proposed rule in 2004. However, due to the length of time since the publication of the proposed rule, the Department now updates the factual basis. The amendment would have little or no

[5] The Department is developing a procedure for electronic filing in AD/CVD proceedings. The Department will consider what changes, if any, this interim final rule will require to meet electronic filing procedures. *See, e.g.,* Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures, 75 FR 44163 (July 28, 2010).

economic impact on the companies/governments or their legal or other representatives since it only alters existing requirements. The amendment would have few, if any, new paperwork burdens since it only requires a small amount of additional supplemental information. IA possesses limited information regarding the number of entities that might be affected by this proposed rulemaking. In the 12 months ending September 2010, IA conducted 246 antidumping and countervailing duty investigations and reviews (excluding sunset reviews and suspension agreements), including initiation of 17 antidumping and countervailing duty investigations. However, IA is unable to estimate the number of entities that participated in each of these investigations and reviews, and is therefore unable to estimate the number of entities, including those that would be considered to be small businesses, affected by the proposed rulemaking. In addition, no comments were received regarding the economic impact of this rule. As a result, the conclusion in the original certification remains unchanged and a final regulatory flexibility analysis is not required and has not been prepared.

Paperwork Reduction Act

It has been determined that this proposed rulemaking is not subject to the Paperwork Reduction Act. In this regard, the Department notes that earlier versions of this rulemaking stated that the Paperwork Reduction Act was applicable. However, since that time, the Office of the Assistant General Counsel for Legislation and Regulation has determined that this rulemaking is not subject to the Paperwork Reduction Act because certifications accompany information submitted during the course of AD/CVD proceedings. *See* 5 CFR 1320.4(a)(2) (explaining that the Paperwork Reduction Act does not apply to administrative action against specific individuals or entities).

Executive Order 12866

It has been determined that the proposed rulemaking is not significant for purposes of Executive Order 12866.

Executive Order 13132

It has been determined that the proposed rulemaking does not contain federalism implications warranting the preparation of a federalism assessment.

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping duties, Business and industry, Confidential business information, Countervailing duties, Investigations, Reporting and recordkeeping requirements.

Dated: January 31, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

For the reasons stated above, 19 CFR part 351 is amended as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

■ 1. The authority citation for 19 CFR part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.;* and 19 U.S.C. 3538.

■ 2. Section 351.303(g) is revised as follows:

§ 351.303 Filing, format, translation, service, and certification of documents.

* * * * *

(g) *Certifications.* A person must file with each submission containing factual information the certification in paragraph (g)(1) of this section and, in addition, if the person has legal counsel or another representative, the certification in paragraph (g)(2) of this section.

(1) For the person(s)* officially responsible for presentation of the factual information:

COMPANY/GOVERNMENT CERTIFICATION

I, *(PRINTED NAME AND TITLE)*, currently employed by *(COMPANY NAME or GOVERNMENT),* certify that I prepared or otherwise supervised the preparation of the attached submission of *(IDENTIFY THE SPECIFIC SUBMISSION BY TITLE AND DATE)* pursuant to the *(INSERT ONE OF THE FOLLOWING: THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER) or THE (DATES OF POR) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY)) (CASE NUMBER) or THE SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY OF AD/CVD ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER).* I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____

Date: _____

* For multiple person certifications, all persons should be listed in the first sentence of the certification and all persons should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, e.g., "I" should be changed to "we" and "my knowledge" should be changed to "our knowledge."

(2) For the legal counsel or other representative:**

REPRESENTATIVE CERTIFICATION

I, *(PRINTED NAME) ,* with *(LAW FIRM or OTHER FIRM) ,* counsel or representative to *(COMPANY OR GOVERNMENT OR PARTY),* certify that I have read the attached submission of *(IDENTIFY THE SPECIFIC SUBMISSION BY TITLE AND DATE)* pursuant to the *(INSERT ONE OF THE FOLLOWING: THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER) or THE (DATES OF POR) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER) or THE SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY OF AD/CVD ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER).* In my capacity as an adviser, counsel, preparer or reviewer of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited

to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____

Date: _____

** For multiple representative certifications, all representatives and their firms should be listed in the first sentence of the certification and all representatives should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, e.g., "I" should be changed to "we" and "my knowledge" should be changed to "our knowledge."

[FR Doc. 2011–2761 Filed 2–9–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 15

Office of the Secretary

43 CFR Parts 4, 30

[Docket ID: BIA–2009–0001]

RIN 1076–AF07

Indian Trust Management Reform—Implementation of Statutory Changes

AGENCY: Bureau of Indian Affairs, Office of the Secretary, Interior.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule implements the latest statutory changes to the Indian Land Consolidation Act, as amended by the 2004 American Indian Probate Reform Act and later amendments (ILCA/AIPRA). These changes primarily affect the probate of permanent improvements owned by a decedent that are attached to trust or restricted property owned by the decedent. These changes also affect the purchase of small fractional interests at probate by restricting who may purchase without consent and what interests may be purchased without consent.

DATES: This interim final rule is effective on February 10, 2011. Submit comments by March 14, 2011.

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

—*Federal rulemaking portal: http://www.regulations.gov.* The rule is listed under the agency name "Bureau of Indian Affairs." The rule has been assigned Docket ID: BIA–2009–0001. If you would like to submit comments through the Federal e-Rulemaking Portal, go to *http://www.regulations.gov* and do the following. Go to the box entitled "Enter Keyword or ID," type in "BIA–2009–0001," and click the "Search" button. The next screen will display the Docket Search Results for the rulemaking. If you click on BIA–2009–0001, you can view this rule and submit a comment. You can also view any supporting material and any comments submitted by others.

—*E-mail: Michele.Singer@bia.gov.* Include the number 1076–AF07 in the subject line of the message.

—*Fax:* (505) 563–3811. Include the number 1076–AF07 in the subject line of the message.

—*Mail:* Michele Singer, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1001 Indian School Road, NW., Suite 312, Albuquerque, NM 87104. Include the number 1076–AF07 in the subject line of the message.

—*Hand delivery:* Michele Singer, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1001 Indian School Road, NW., Suite 312, Albuquerque, NM 87104. Include the number 1076–AF07 in the subject line of the message.

We cannot ensure that comments received after the close of the comment period (*see* **DATES**) will be included in the docket for this rulemaking and considered. Comments set to an address other than those listed above will not be included in the docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Michele Singer, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1001 Indian School Road, NW., Suite 312, Albuquerque, NM 87104, phone: (505) 563–3805; fax: (505) 563–3811; e-mail: *Michele.Singer@bia.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 13, 2008, the U.S. Department of the Interior published a final rule related to Indian trust management in the areas of probate, probate hearings and appeals, Tribal probate codes, and life estates and future interests in Indian land (73 FR 67256). The final rule updated regulations to, among other things, implement ILCA/AIPRA. On November 20, 2008, Congress passed a bill that made several changes to ILCA/AIPRA. On December 2, 2008, the President signed the bill into law. *See* Public Law 110–453. This interim final rule updates the affected regulatory provisions to reflect the changes that Public Law 110–453 made to ILCA, as amended by AIPRA.

II. Description of Changes

There are two main subjects covered by this interim final rule: purchase at probate and the treatment of permanent improvements. This interim final rule also makes additional, non-substantive clarifications.