

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****Notice of Proposed Information Collection**

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request renewed approval for the collections of information for 30 CFR 870.18, Abandoned mine reclamation fund—fee collection and coal production reporting; and 30 CFR part 735—Grants for Program Development and Administration and Enforcement, and 30 CFR part 886—State and Tribal Reclamation Grants. These collection requests have been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection requests describe the nature of the information collections and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by December 9, 2002 in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of either information collection request, explanatory information and related forms, contact John A. Trelease at (202) 208-2783, or electronically to jtreleas@osmre.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSM has submitted two requests to OMB to renew its approval of the collections of information contained in: 30 CFR 870.18, Abandoned mine reclamation fund—fee collection and coal production reporting; 30 CFR part 735—Grants for Program Development and Administration and Enforcement, and 30 CFR part 886—State and Tribal Reclamation Grants. OSM is requesting a 3-year term of approval for each information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for part 870.18 is 1029-0090 and 30 CFR part 735 and 886 that require grant submittals are currently approved under OMB control number 1029-0059.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on July 22, 2002 (67 FR 47828). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activities:

Title: 30 CFR part 735—Grants for Program Development and Administration and Enforcement, and 30 CFR part 886—State and Tribal Reclamation Grants

OMB Control Number: 1029-0059.

Summary: State and Tribal reclamation and regulatory authorities are requested to provide specific budget and program information as part of the grant application and reporting processes authorized by the Surface Mining Control and Reclamation Act.

Bureau Form Numbers: OSM-47, OSM-49 and OSM-51.

Frequency of Collection: Semi-annually, annually and once.

Description of Respondents: State and Tribal regulatory and reclamation authorities.

Total Annual Responses: 132.

Total Annual Burden Hours: 655 hours.

Title: 30 CFR Part 870.18—Abandoned mine reclamation fund—fee collection and coal production reporting.

OMB Control Number: 1029-0090.

Summary: Section 402 of SMCRA requires fees to be paid to the Abandoned Mine Reclamation Fund by coal operators on the basis of coal tonnage produced. This information collection request is needed to support verification of the moisture deduction allowance. The information will be used by OSM during audits to verify that the amount of excess moisture taken by the operator is appropriate.

Frequency of Collection: Quarterly.

Description of Respondents: Coal mine operators.

Total Annual Responses: 933.

Total Annual Burden Hours: 700.

Send comments on the need for the collections of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the

information collections; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the following addresses. Please refer to OMB control number 1029-0059 for parts 735 and 886 and the three grant forms, and 1029-0090 for Part 870.18 in your correspondence.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW., Washington, DC 20503. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210—SIB, Washington, DC 20240, or electronically to jtreleas@smre.gov.

Dated: October 15, 2002.

Richard G. Bryson,

Chief, Division of Regulatory Support.

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INTERNATIONAL TRADE COMMISSION**Handbook on Electronic Filing Procedures**

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Consistent with the Government Paperwork Elimination Act, the United States International Trade Commission (Commission) has implemented procedures to permit persons to electronically file certain documents with the Commission. The Commission also is publishing a notice of final rulemaking to permit electronic filing. In conjunction with that notice, the Commission is issuing a final version of a Handbook on Electronic Filing Procedures that sets forth the requirements governing electronic filing of documents (Handbook). The Handbook was finalized after consideration of public comments to the initial draft of the Handbook on Electronic Filing Procedures (EFP), which was published in the **Federal Register** on April 26, 2002 (67 FR 20822, April 26, 2002) (Draft Handbook).

DATES: The effective date of the Handbook as printed in this notice will be announced in a notice to be published in the **Federal Register** at a later date.

FOR FURTHER INFORMATION CONTACT: Irene H. Chen, Esq., Office of the

General Counsel, United States International Trade Commission, telephone 202-205-3112. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its website (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

On April 26, 2002, the Commission published a notice in the **Federal Register** to solicit public comments on the draft Handbook (April 2002 Notice). 67 FR 20822, April 26, 2002. In its notice, the Commission proposed certain electronic filing procedures in the draft Handbook and requested public comment on those procedures.

The Commission received a total of six sets of comments from the ITC Trial Lawyers Association (ITCTLA) and five law firms. The Commission carefully evaluated all comments received. The Commission's response to those comments is set forth below. The comments are organized by Handbook section. Please refer to the draft Handbook published in the April 2002 notice when reading the comments discussed below.

The Commission considered those public comments in developing the Handbook, which will be maintained and distributed by the Secretary. The Handbook is being promulgated in conjunction with § 201.8(f) of the Commission's rules of practice and procedure (rules), as amended. Section 201.8(f) allows persons the option of filing certain documents electronically without violating the relevant rules requiring paper filings at the Commission. Please review the entire Handbook before you begin electronic filing. The Handbook follows the analysis of public comments and the Commission's response thereto.

Analysis of Public Comments to Draft Handbook and Commission's Response

1. *Handbook, section II(A) "Definitions and Instructions":* The ITCTLA commented that the Commission should add a definition of "cover sheet" to the definitions and instructions section of the Handbook. The law firm of Adduci, Mastriani & Schaumberg L.L.P. commented that the Commission should add a definition for "Notice of Electronic Filing" to the definitions and instructions section of the Handbook. The Commission has added these two definitions to section II(A) of the Handbook.

2. *Handbook, section II(B) "Registration as an EFP User and Assignment of Passwords":* The law firm of Miller & Chevalier commented that the Commission should consider three alternatives in issuing user IDs and passwords: (1) Whether to limit user IDs and passwords to only a few per law firm; (2) whether to issue user IDs and passwords to secretaries and legal assistants; and (3) whether to issue different user IDs and passwords for each new case to prevent disclosure of business proprietary information (BPI) or confidential business information (CBI). The Commission has determined to issue one user ID and password to each registered user for use in Commission proceedings instead of a different user ID and password in each new proceeding because party representatives are not permitted at this time to file documents containing BPI or CBI or to view such documents in the Commission's Electronic Document Information System (EDIS-II). If and when that policy changes, the Commission will revisit the issue of whether a user must register more than once. The Commission also has decided not to restrict the issuance of user IDs and passwords to a certain group of registered users in order to encourage persons to register for electronic filing.

The ITCTLA and Adduci, Mastriani & Schaumberg L.L.P., suggested that the Commission clarify that an EFP user need only register once for electronic filing. The Commission has revised this section to state that electronic filers need to register only once for a user ID and password. Registered users of the electronic filing system need only submit a registration form to the Secretary once; however, registered users are responsible for notifying the Secretary in the event of any changes to their registration information.

3. *Handbook, section II(B)(5)(a):* The ITCTLA commented that the Commission should incorporate instructions to nonparties in the Handbook instead of separately on the website. The Commission will post instructions for electronic filing to nonparties on the website because nonparties typically do not file the same type of documents as parties do. It will be easier for nonparties to access filing instructions directly on the website instead of having to review the Handbook for instructions.

4. *Handbook, section II(C) "Types of Documents":* The ITCTLA commented that the Commission should permit electronic filing of documents listed in categories (2) through (7) of section II(C) of the Handbook, followed by paper filings of those documents the following

day. Alternatively, the ITCTLA and the law firm of Stewart and Stewart commented that the Commission should not require the concurrent filing of paper copies of certain electronically filed documents as specified in the Handbook. The Commission has determined to adopt the ITCTLA's comment to permit electronic filing of documents listed in categories (2) through (7) of section II(C) of the Handbook, followed by a corresponding paper filing of the same document no later than one business day after the electronic filing.

Adduci, Mastriani & Schaumberg commented that the Commission should first permit only public electronic filings under 5 megabytes, and then progress to public and confidential e-filings over 5 megabytes once system flaws have been discovered and fixed. The ITCTLA and Miller & Chevalier commented that the Commission should allow electronic filing of documents containing BPI or CBI. The Commission has determined not to permit the electronic filing of documents containing BPI or CBI at this time. Once EDIS-II has operated for a time, the Commission may reevaluate its prohibition on electronic filing of documents containing BPI or CBI. As for Adduci's comment regarding the size of electronic filings, the Commission has determined that any electronic filing may exceed five megabytes, so long as none of the attachments in the filing is over five megabytes.

The ITCTLA commented that the Commission should consider granting counsel electronic access to BPI or CBI materials on EDIS-II in each investigation upon the filing of a notice of appearance and APO application. The ITCTLA proposed that, in the alternative, the Commission should phase-in access to confidential material in EDIS-II by permitting only parties' counsel (on the APO list) and ALJs in selected investigations to access BPI or CBI in the first phase; permitting a limited number of counsel (on the APO list) in any investigation to access BPI or CBI in the second phase; and all counsel (on the APO list) in any investigation to access BPI or CBI in the third phase. The Commission has determined not to provide counsel electronic access to BPI or CBI immediately because the agency wants to operate EDIS-II for a time before considering permitting such access.

The ITCTLA proposed rewording of section II(C) of the draft Handbook to avoid possible confusion over which type of documents may be filed electronically. Stewart & Stewart commented that the Commission should

provide an “express instruction” regarding the type of documents that may be filed electronically, as the Court of International Trade does in its electronic filing procedures (instead of listing several categories of documents that can be filed electronically). Wilmer, Cutler & Pickering commented that the Commission should not prohibit electronic filing of public versions of documents containing BPI or CBI. Although the Draft Handbook does permit the electronic filing of public versions of documents containing BPI or CBI, the Commission has determined to clarify the language of section II(C) in the Handbook by largely adopting the proposed language of the ITCTLA. The Commission considers that such language will provide sufficient instructions to filers.

The ITCTLA commented that the Commission should explicitly address how the “24 hour” rule is to be applied in electronic filing of documents in title VII investigations. Currently, paper filers can choose to submit either the corrected confidential document in its entirety or the corrected portion of the confidential document under the “one day” rule. However, because inserting replacement pages into a PDF document would pose technical difficulties, the Commission has determined that, for electronic filings, the entire document containing “one day” changes must be refiled electronically. The Commission has amended the language in the Handbook to incorporate the requirement that complete copies of documents with “one day” changes must be filed, instead of just pages containing “one day” changes, as is currently done with paper copies of documents.

5. *Handbook, section II(D) “Where Documents Are To Be Filed Electronically”*: The ITCTLA commented that the Commission should incorporate instructions for electronic filing and hardware/software requirements in the Handbook, instead of on the website. The Commission has determined to add a set of Adobe Acrobat standards, and instructions on attachment creation and redaction methodology to the Handbook, but sees no need to duplicate other instructions posted on the website.

Stewart & Stewart commented that the Commission should provide a warning to electronic filers that text-based PDF files may permit others to retrieve “masked” confidential material. The Commission has added such a warning in the Handbook.

6. *Handbook, section II(E) “Notice of Electronic Receipt”*: Stewart & Stewart commented that the Commission should

consider including the start time of the registered user’s electronic transmission of the document on the notice of electronic receipt, in the event that the document is not received in its entirety by EDIS–II until after 5:15 p.m. The Commission has determined not to include the start time of the electronic transmission on the notice of electronic receipt due to technical limitations of EDIS–II.

7. *Handbook, section II(F): “Deadline for Electronic Filing of Documents”*: The ITCTLA commented that the Commission should treat an electronic filing as timely if transmission of the electronic document to EDIS–II begins on or before 5:15 p.m. on the filing deadline date (not when the transmission to EDIS–II is completed). The ITCTLA also commented that the Commission should consider extending the electronic filing deadline beyond 5:15 p.m. to encourage filers to choose electronic filing over paper filing.

The Commission intends to adhere to 5:15 p.m. as the deadline for receipt of electronic documents in its entirety by EDIS–II so that electronic filers do not have an undue advantage over paper filers. The Commission notes that, even though the 5:15 p.m. deadline is applicable to both electronic and paper filings, paper filers must still factor in time for printing, assembly and manual delivery of paper documents. Electronic documents not received in their entirety by 5:15 p.m. will be treated as filed on the next Commission business day.

Adduci, Mastriani & Schaumberg commented that the Commission should amend section II(F) of the Handbook to state that filers should contact the Secretary’s office in the event of a technical failure during an electronic filing transmission. The Secretary should assign an authorization number for the filer to include in a declaration filed with the original document the following business day. The Commission has decided not to adopt the comment of Adduci, Mastriani & Schaumberg that filers who experience a technical failure during actual electronic filing of a document may contact the Secretary for an authorization number to file a document the following business day. Authorization numbers will only be issued by the Secretary if the EDIS–II website experiences a technical failure for a period of time greater than 1 hour after 12 p.m. on a Commission business day. In all other cases, filers may submit a request for late filing if they experience technical difficulties in electronic filing.

8. *Handbook, section II(G) “Technical Failures”*: Stewart & Stewart, Miller &

Chevalier, and the ITCTLA commented that the Commission should correct the draft Handbook to state that the EDIS–II website will be deemed subject to a technical failure if the site is “unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12 noon * * *” or “* * * any period of time after 12 noon * * *” The Commission has corrected the Draft Handbook to state “* * * any period of time greater than one hour after 12 noon * * *”

9. *Handbook, section II(H) “Requests for Late Filing”*: Adduci, Mastriani & Schaumberg commented that if a filer begins an electronic filing transmission prior to 5:15 p.m. but receives the notice of electronic filing after 5:15 p.m., a request for late filing should be granted by the Secretary. As previously noted above, the filing deadline for electronic documents is 5:15 p.m. If the electronic document is not received in its entirety by EDIS–II by no later than 5:15 p.m., the filer may submit a request for late filing to the Secretary, requesting that the Commission accept the late filing. The Commission has determined that requests for late filing will be granted or denied based on the circumstances of each late filing.

Miller & Chevalier commented that the Commission should specify the type of documentation that should be attached to a request for late filing to show that a document was electronically filed prior to 5:15 p.m. The Commission has determined not to require that documentation be attached to a request for late filing. Instead, the registered user should include, in the request for late filing, an unsworn declaration attesting to the start time of the electronic transmission to EDIS–II.

10. *Handbook, section II(I): “Format of Documents”*: Stewart & Stewart commented that the Commission should consider requiring electronic filers to include specific information regarding security and permission settings in the document properties section of the PDF file being transmitted to the Commission to assist it in handling of the document. The Commission has included in the Handbook certain security and permission settings that all Registered Users must implement for their electronic filings.

The ITCTLA commented that the Commission should post on the EDIS–II website a template that contains the standardized settings for Adobe Acrobat PDF documents that are electronically filed. The Commission has determined to list in the Handbook portable document format (.pdf) standards for electronically filed documents.

The ITCTLA commented that the Commission should implement word count limits for electronically filed documents to avoid inadvertent violations of page limits due to pagination problems with Adobe Acrobat PDF format. The Commission has decided to retain in the initial phase the same page limits requirements as are applicable to paper filings because of the system's technical limitations.

Miller & Chevalier commented that the Commission should not discourage filing of image-based PDF files because they can also be made searchable via certain steps that the Commission could require filers to perform. At this time, the Commission will retain the language in the Draft Handbook regarding image-based PDF files due to the large size of such files and technical limitations of EDIS-II with respect to conversion of image-based PDF files.

11. *Handbook, section II(J): "Size of Electronic Transmission"*: Miller & Chevalier commented that the Commission should clarify whether each attachment of an electronic submission or the entire electronic submission is limited to no more than five (5) megabytes. Miller & Chevalier suggested the following revision: "An electronic transmission as a whole can exceed 5 megabytes so long as no one attachment exceeds 5 megabytes." The Commission has determined to adopt Miller & Chevalier's proposed language regarding the size of attachments to an electronic transmission.

Miller & Chevalier commented that the Commission should provide detailed instructions on how to label each separate attachment for an electronic filing. The Commission has incorporated in the Handbook detailed instructions on how to label each separate attachment for an electronic filing.

12. *Handbook, section II(K)(4)(c): "Signatures"*: The ITCTLA commented that, once electronic filing of documents containing confidential material is permitted, the Commission should note the potential conflict between section II(K)(4)(c) (requiring the retention of documents containing two or more original signatures for one year after the conclusion of an investigation and resulting appeals) and Commission rules that require the return or destruction of materials released under APO after completion of certain proceedings. The Commission has determined to amend the language in this section to state that electronic filers must retain documents containing two or more original signatures until the earlier of (i) Commission deadline for destruction of APO materials, if

applicable; or (ii) one year after the conclusion of the investigation and resulting appeals.

Adduci, Mastriani & Schaumberg commented that the Commission should require that a party who electronically files a document containing multiple signatures must maintain a hard copy of the document containing the facsimile signatures (instead of the original signatures) for one year after completion of the investigation. The Commission has determined to retain the requirement of maintaining a hard copy of a document containing multiple signatures for easier verification of signatures.

13. *Handbook, section II(L): "Limitations on Service of Electronic Documents"*: Miller & Chevalier and the ITCTLA commented that, in Commission proceedings, the Commission should not require the Secretary's or ALJ's prior approval for electronic service since parties already reach private agreements among themselves regarding service arrangements. Instead, the Commission could either permit the Secretary or ALJ to impose deadlines for electronic service or delete the prior consent requirement altogether. The Commission has determined to retain the requirement of prior consent to electronic service by the Secretary or ALJ so that a record of proceedings subject to electronic service may be maintained by the Secretary or ALJ.

Miller & Chevalier and the ITCTLA commented that the Commission should serve its own documents such as orders and opinions on parties either via email or other electronic means. The Commission has determined not to serve electronically its own documents on parties in the initial phase because of technical and security concerns.

Stewart & Stewart commented that the Commission should clarify in the Handbook how an electronic filer should effect service of paper versions of electronic text-based PDF documents containing hyperlinks to exhibits, decisions published by courts on official websites, decisions available in commercial legal databases, or other material available on the internet. Options for paper service of hyperlinked materials include submitting supporting materials on optical disks, revising page or file size limitations. Stewart & Stewart also raised the issue of whether service of paper copies that do not contain the enhancements of the electronic version is sufficient under the rules. The Commission has added a section in the Handbook to prohibit hyperlinks to other documents unless the actual hyperlinked material is

included in its entirety in any corresponding paper copy to be filed with the Commission and served on other parties. In addition, the Commission has added a section in the Handbook that states that hyperlinked materials in electronic form will not be considered part of the official record of the Commission proceeding (*See, e.g.* 19 CFR 207.50(b)).

14. *Handbook, section II(N) "Official Administrative Record in Electronic Filings"*: Stewart & Stewart commented that the Commission should specify in the Handbook how it intends to treat electronically filed documents for purposes of compiling the official record (*See, e.g.* 19 CFR 207.50(b)), given that documents filed electronically may differ from corresponding paper versions. The ITCTLA commented that the Commission should deem the first-filed copy as the governing or "official copy" in the event of disputes over filing dates/times or discrepancies between electronically filed and paper copies, unless other arrangements are made by the filing party. The Commission has determined, for consistency, to designate the electronic version of a document as being the "official copy" for purposes of compiling the official administrative record and in the event of any dispute or discrepancy between electronic and paper versions of a document.

15. *Other electronic filing comments*: The ITCTLA commented that the Commission should send an email notification to each counsel of record in an investigation concurrently with uploads to EDIS-II identifying all documents filed. The Commission has determined, in the initial pilot phase, not to send email notifications to each counsel of record in an investigation in order to allow counsel time to register as users of the electronic filing system. Moreover, the current form of EDIS-II does not include a function to send email notifications to each counsel of record. The Commission has included a feature on the EDIS-II home page that permits users to quickly identify all documents filed with the Commission on a daily basis.

Miller & Chevalier commented that the Commission should post a frequently asked questions (FAQs) section on its website to address both general filing guidelines and technical questions. The Commission has determined to post a FAQs section on its website.

The ITCTLA commented that the Commission should only maintain a single website for both electronic filing and EDIS-II access, instead of

establishing another website (<http://edis.usitc.gov>) for electronic filing. The Commission has determined to retain the second website (<http://edis.usitc.gov>) for electronic filing in order to maintain the security of EDIS-II. A link to the EDIS-II website will be posted on the Commission's Web site at <http://www.usitc.gov>.

The ITCTLA commented that the Commission should develop and post on the EDIS-II website tools for redaction of BPI or CBI from filed documents so that counsel do not inadvertently breach APO obligations. The Commission has determined not to develop nor post on its website standard tools for redaction of BPI or CBI, given the variety of differing software/hardware systems used by parties, counsel, and other persons appearing before the Commission.

Miller & Chevalier commented that the Commission should implement a trial period whereby law firms can perform test filings to determine whether there are any technical problems with either the ITC system or with the law firms' own computer systems. The Commission is considering whether to conduct a trial period.

Handbook on Electronic Filing Procedures

The Handbook is printed in its entirety below. The Commission anticipates that EDIS-II will be operational and available for public use in December 2002. However, before persons will be permitted to register for electronic filing and to submit filings electronically to EDIS-II, the Commission will publish a notice in the **Federal Register** advising the public of the date that electronic filing will begin.

In issuing this Handbook, the Commission does not intend to maintain all of the procedures set forth in the Handbook indefinitely. Rather, the Commission anticipates that, as persons register for and utilize the electronic filing system, Handbook procedures *may need to be amended*. In particular, the Commission may consider expanding the list of documents that can be filed electronically.

International Trade Commission

Commission Handbook on Electronic Filing Procedures

I. Introduction

A. This Handbook provides instructions for persons who wish to file documents electronically with the United States International Trade Commission (Commission) pursuant to § 201.8(f) of the Commission's rules of

practice and procedure (19 CFR 201.8(f)).

B. In any conflict between the Commission's rules of practice and procedure (rules) and this Handbook, the rules shall govern. This Handbook is designed to be read in conjunction with the rules. This Handbook does not alter or waive any provisions in the rules governing the filing of documents with entities and/or persons other than the Commission, including but not limited to the United States Secretary, NAFTA Secretariat.

C. If you choose to file in paper form, you must comply with the relevant provisions of the rules governing such filing. The Commission does not permit filing by means other than paper filing in accordance with the relevant rules or electronic filing in accordance with § 201.8(f) and this Handbook. Thus, for example, filing by facsimile and by electronic mail (*i.e.*, sending a document to a Commission electronic mail address) are not permitted.

II. Electronic Filing Procedures (EFP)

A. Definitions and Instructions:

(1) "EFP" means the Commission's Electronic Filing Procedures.

(2) "Secretary" means the Secretary to the Commission (500 E Street, SW., Room 112, Washington, DC 20436, telephone 202-205-2000). The EFP is administered by the Secretary and any questions about EFP should be directed to the Secretary.

(3) "Business hours" or "Business days" refers to the hours and days that the Commission is open (*i.e.*, from 8:45 a.m. to 5:15 p.m., Washington, DC local time, from Monday through Friday, excepting Saturdays, Sundays and Federal legal holidays).

(4) The "Web site" refers to the Commission's world wide Web site at <http://edis.usitc.gov>.

(5) "EDIS-II" refers to the Commission's Electronic Document Information System, which will receive electronic transmission of documents through the Commission's Web site.

(6) "Cover sheet" refers to the EDIS-II cover sheet that all filers must complete pursuant to § 201.8(g) of the Commission's rules and regulations.

The cover sheet may be completed either on-line at the Web site for electronic filings or in paper form for paper filings.

(7) "Document" refers to the cover sheet and attachments that comprise an electronic filing with the Commission.

(8) "Electronic receipt" means that an electronic transmission of a document to EDIS-II via the Commission's Web site has been successfully completed in its entirety.

(9) "Electronic filing" means the electronic transmission of a document and the Secretary's acceptance of the document for filing. As discussed below, the electronic transmission and receipt of a document does not necessarily mean that the document has been filed.

(10) "Registered user" means a person that registers to file documents electronically with the Commission.

(11) "E-mail address of record" means the electronic mail address of a registered user which he or she has provided to the Secretary.

(12) "Notice of electronic receipt" will be provided in two forms: (a) An on-screen notice of receipt once the electronic transmission of the document is complete; and (b) an e-mail sent to the registered user's e-mail address of record. The notice of electronic receipt only conveys that the document is physically present at the Commission and does not mean that the document has been accepted by the Secretary for filing in EDIS-II.

(13) "Notice of electronic filing" will be e-mailed to the registered user's e-mail address of record upon acceptance of the electronic document for filing in EDIS-II by the Secretary.

B. Registration as an EFP user and assignment of passwords:

(1) Except as provided in paragraph B(5) below, to file electronically, you must first register to become a "registered user" of the Web site. To register, you should fill-out the "EFP user registration form" (hereinafter called "registration form") both on-line at the Web site and in paper form by printing-out a paper copy directly from the Web site. You should mail or deliver the completed and signed paper copy of the registration form to the Secretary.

The registration form will require identification of your name, firm affiliation (if any), address, telephone number and e-mail address of record, and your original signature (on the paper copy). You must have and maintain a working e-mail address to be a registered user. You should also designate a user ID and password on the on-line version of the registration form; however, you may not use your user ID and password for electronic filing until the Secretary has reviewed the paper copy of your registration form and has sent you a notice of activation of user ID and password by mail. Electronic filers need only submit the registration form to the Secretary once to become a registered user of the Web site. Once the Secretary has sent the registered user a notice of activation of user ID and password, the registered user will be permitted to file certain documents

electronically in Commission proceedings in which he or she has filed an entry of appearance or otherwise represents a party.

(2) A registered user may authorize another person to file a document with the Commission using the user ID and password of the registered user; however, the registered user assumes responsibility for any authorized use of his or her user ID and password. The registered user and all persons who participate in the preparation of or are signatories to a document shall retain responsibility with respect to any duties and obligations pertaining to the document under the rules. A registered user must comply with applicable limitations on disclosure of BPI and CBI when providing his or her user ID and password to another person. As provided in paragraph II(K)(2), a document filed using a registered user's user ID and password will be deemed signed by that registered user.

(3) Upon learning of the potential compromise of the confidentiality of his/her password, the registered user shall immediately change the password. The registered user must also notify the Secretary of the perceived breach and the period of compromise. If the registered user has provided his/her password to an employee of the registered user's firm, such as a paralegal, legal assistant, or secretary who subsequently leaves the firm, the registered user must change the password when that employee's access should be terminated. Unless there is a perceived breach of confidentiality, in such instances, no notification of the Secretary is needed.

(4) Every registered user shall be responsible for keeping his or her registration information current.

(5) You may not electronically file documents with the Commission unless you have registered with the Commission pursuant to the procedures set forth in subparagraph (1) above, with the following exception:

(a) If you do not represent a party to an investigation pending before the Commission (*i.e.*, you are not an attorney, consultant, officer, owner, shareholder, employee, agent, director, or other representative of a party to an investigation), and you would like to submit a document to the Commission regarding the pending investigation, please follow the relevant instructions on the Web site for non-registered users.

C. Types of documents:

(1) The following documents cannot be filed electronically and must be filed in paper form in accordance with the rules: A document (i) that contains confidential business information

("CBI") or business proprietary information ("BPI") as defined in 19 CFR 201.6, (ii) that exceeds the size limit set forth in paragraph II(I) of this Handbook, or (iii) that contains exhibits of original documents, such as certified copies.

(2) All other documents may be filed electronically. However, for the following six categories of documents, you must also file the document in paper form pursuant to the rules no later than one business day after the electronic filing.

(a) Briefs for which no BPI or CBI version is filed, including those subject to 19 CFR 201.13, 207.15, 207.23, 207.25, 207.65, 207.67, and 210.40, except that briefs filed in proceedings subject to section 332 of the Tariff Act of 1930 for which no CBI version is filed may be filed electronically without corresponding paper copies;

(b) Comments on questionnaires for which no BPI or CBI version is filed, subject to 19 CFR 207.20 and 207.63;

(c) Final comments for which no BPI version is filed, subject to 19 CFR 207.68 and 207.30;

(d) Petitions for review for which no CBI version is filed subject to 19 CFR 210.43 and 210.46;

(e) Petitions, including those subject to 19 CFR 202.2, 206.2, 206.14, 206.33, 206.43, 206.54, 207.10, 210.47; and

(f) Complaints, including those subject to 19 CFR 210.12.

For these six categories of documents, you must include a printout of a copy of the cover sheet that accompanied the electronic filing and submit it with the paper version.

If a standard form has been prescribed to be used when filing any document, you must use that standard form when filing such document electronically.

You must complete the electronic cover sheet on EDIS-II at the time that you make your electronic filing. EDIS-II will consider the cover sheet and one or more attachments to be the complete filing. For example, a cover letter addressed to the Secretary is one attachment. Multiple attachments may be filed as part of the same electronic transmission as long as each attachment does not exceed the size limitation set forth in paragraph II(I) of this Handbook. You may submit any number of attachments per document. However, each individual pleading or submission must be accompanied by a unique cover sheet. For example, each motion filed in connection with an investigation conducted pursuant to section 337 must have a unique cover sheet even if several motions are filed sequentially. In addition, a motion and a memorandum in support thereof must be filed

separately (*i.e.*, the memorandum cannot be attached to the motion). Likewise, a notice of appearance and APO application for access to BPI or CBI each must have a separate cover sheet even if filed jointly.

If you are electronically filing 24-hour changes to a document pursuant to §§ 206.8 or 207.3 of the Commission's rules of practice and procedure (19 CFR 206.8 and 207.3), you must file the entire corrected document again, not just portions of the document containing the 24-hour changes. If you are filing both an electronic version and a paper version of a document, you must state in your cover letter to the Secretary that you are making filings of the same document in both electronic and paper form. The cover letter to the Secretary must be included in both the electronic version and the paper version of the document.

Any hyperlinked materials contained in an electronic filing must be reproduced in their entirety as an attachment to the document. Please note that any hyperlinked material contained in the electronic version of a document must be printed in its entirety in the corresponding paper copy, in conformance with all applicable page limits under the Rules.

D. Where documents are to be filed electronically:

If you want to file a document electronically, you should visit the Web site and follow the instructions for submitting a document electronically to EDIS-II, including completion of the cover sheet for each filing. The instructions will include the applicable hardware and software requirements for electronic filing.

E. Notice of electronic receipt:

Upon completion of the electronic transmission of your document and upload at the Commission, EDIS-II will provide you with an on-screen notice of electronic receipt. In addition, EDIS-II will generate and send an e-mail notice of electronic receipt to the official e-mail address associated with the user ID. Receipt of a notice of electronic receipt does not constitute acknowledgment by the Commission that the document has been properly filed pursuant to the rules or this Handbook. Moreover, such notification does not constitute service of the document on the parties to an investigation.

If you do not receive a notice of electronic receipt following transmission of a document for filing or get an error message, the document will not be deemed transmitted to EDIS-II and consequently, will not be received by the Secretary for filing. You must

attempt to (i) re-transmit the document electronically until such a notice is received, (ii) file in paper form, or (iii) contact the Secretary in accordance with the provisions of paragraph II(G) permitting delayed filings.

If the document is electronically received by EDIS-II on a Saturday, Sunday, or Federal legal holiday, or after business hours on a business day, the effective filing date and time of the document will be the next business day, assuming the document is accepted. If the document is electronically received by EDIS-II during business hours, then the effective filing date and time of the document is the date and time that the document has been electronically received by EDIS-II.

Subsequent to the notice of electronic receipt, the Secretary will send you a second notice (notice of electronic filing) notifying you that the document has been accepted by the Secretary for filing in EDIS-II.

F. Deadline for electronic filing of documents:

When the Commission has imposed a deadline on the filing of a document, the Secretary will consider the document timely filed electronically only if it is received successfully in its entirety by EDIS-II by 5:15 p.m., Washington, DC local time, on the day that the document is due to be filed. However, prior to that time, you may electronically transmit a document to EDIS-II at any time of the day (*i.e.*, twenty-four hours/day) and on any day of the week (including weekends and holidays). You should preserve the notice of electronic receipt, which states the time and date that EDIS-II received the document, for your records. From time to time, EDIS-II may be unavailable for electronic filing due to periodic maintenance. The Commission will try to schedule EDIS-II maintenance to those times when EDIS-II is least likely to be used. Scheduled downtime of EDIS-II will be posted on the Web site.

G. Technical failures:

(1) The Secretary shall deem the website to be subject to a technical failure on a given day if the website is unable to accept electronic filings continuously or intermittently over the course of any period of time greater than one hour after 12 noon, Washington, DC local time, on that day. If you are unable to file a document electronically by the deadline imposed by the Commission because the website is experiencing a technical failure, you should contact the Office of the Secretary immediately to report the technical failure of the website and to seek authorization from the Secretary to file your document after

the Commission's deadline governing the filing of your document. If the Secretary grants you such an authorization, the Secretary shall give you an authorization number that you should include on the cover sheet and/or cover letter accompanying your document when you do file your document. When you do file your document subject to the authorization, you should also file an unsworn declaration as described in paragraph II(K)(4)(d) stating (i) the fact that the website's technical failure prevented your making a timely filing, (ii) the dates and times of the attempted filing, (iii) your contacts with the Office of the Secretary to report the website's technical failure, (iv) the Secretary's granting of authorization to file after deadline to you, and (v) the authorization number.

If you are making a late filing for reasons unrelated to the operating status of the website, you should follow the normal procedures in the rules for late filings.

(2) If you discover that the version of the document available for viewing on EDIS-II does not conform to the document that you transmitted, you should send or transmit to the Commission a replacement document with an explanatory cover letter. After receipt, the Secretary will review the documents and provide you with notification of acceptance or rejection.

H. Requests for late filing:

If you electronically transmit your document prior to 5:15 p.m., but the document is not received in its entirety by EDIS-II by 5:15 p.m., you may file a "Request for Late Filing" with the Secretary requesting that the your late filing be accepted because you began electronically transmitting the document to EDIS-II prior to 5:15 p.m. In the request for late filing, you should include an unsworn declaration as described in paragraph II(K)(4)(d) by the registered user attesting to the start time of the electronic transmission.

Please be aware that many filers wait until near the end of the business day to file documents. Please be mindful of the heavy volume of filings at the end of the day and try to transmit your document as early in the day as possible.

I. Size of electronic transmission:

An electronic transmission as a whole can exceed 5 megabytes so long as no one attachment exceeds 5 megabytes. A filing with an attachment that exceeds the foregoing size limitation may only be filed in paper form pursuant to the rules. All page limits set forth in the rules shall remain in effect for purposes of this Handbook.

J. Format of documents:

(1) Documents filed electronically pursuant to this Handbook must be submitted in Adobe Acrobat portable document format (PDF). Please be aware that some special characters used in certain word-processing applications may not convert easily to PDF. The conversion process to PDF may affect pagination as well as the conversion of special characters. Filers are responsible for the accuracy of the documents submitted.

The Commission encourages the submission, when practicable, of documents converted to PDF from word-processed text over that of documents converted to PDF from images because the former normally are significantly smaller in terms of megabytes than the latter, and because the former are more easily searchable within EDIS-II. EDIS-II will create a searchable text version of an image-based document through an optical character recognition process, but that text version is likely to contain some conversion errors.

The Commission will post on the website information that will assist users with document conversion to PDF.

(2) Each page of an electronically filed document must be in letter-sized format (*i.e.*, 8 1/2 inches by 11 inches when printed by the Secretary).

(3) Documents filed electronically cannot exceed the smaller of the page limits set forth in the rules or the size limit set forth herein.

(4) Text-based PDF files may permit others to retrieve "masked" or "whited-out" BPI or CBI. Please remove all "masked" or "whited-out" BPI or CBI before filing any electronic document with the Commission.

(5) *PDF submission requirements:* When preparing PDF documents for filing, you must comply with the following requirements. PDF documents that do not comply with these requirements will be rejected by EDIS-II. (**Note:** When installing Adobe Acrobat 5.0, the default setting must meet all requirements.)

(a) PDF version must be Version 1.3 or greater. (**Note:** Use of Acrobat is not required, but if it is used, it must be Acrobat 4 or greater. This is because only Acrobat 4 or later produces PDF version 1.3.)

(b) Documents must not have Type 3 fonts. Use of Type 1 fonts is recommended.

(c) Only Roman and Cyrillic alphabet may be used in PDF format. Other foreign language documents must be scanned. Special characters should be checked on conversion to ensure that

they were not changed during the distilling process.

(d) Do not attach any embedded files to your PDF document for electronic filing. This includes all comments (note tool, pencil tool, highlights tool, digital signature tool, embedded files, embedded sounds or other multimedia); forms actions; JavaScript actions; external cross references, and image alternates.

(e) Document security setting must have a PDF file security setting of "none."

(6) *PDF submission recommendations:* When preparing PDF documents for submission, the following are recommendations that will enhance the usability of the document.

(a) PDF creation should be via distiller.

(b) Font embedding should be default distiller setting.

(c) Resolution standard for scanning to PDF should be at least 200 dpi and not more than 300 dpi and NMT 300. 300 dpi is recommended. This will allow readable images without causing undue size.

(d) *Linearization:* You should select optimize for web view as distiller setting.

(e) *Scanning vs. conversion from native format:* Whenever possible, you should create PDF from native format.

(f) *Selecting printer/distiller:* You should select distiller as printer before creating document.

(g) *Document properties/associated index:* You should not use this field in your PDF document for electronic filing.

(h) *Recommended template for PDF files:* A sample "usitc.joboptions" file is located on the website as a template for your PDF documents. Persons interested in using this template should go directly to the website.

(7) *Document attachment requirements:*

(a) You must not include attachments or embedded objects within the PDF file. Examples of embedded objects include all comments (note tool, pencil tool, highlights tool, digital signature tool, embedded files, embedded sounds or other multimedia); forms actions; JavaScript actions; external cross references, web links, and image alternates.

(8) *Document attachment guide lines:*
(a) Attachments should be created in the proper sequence; if both electronic and paper versions of a document are filed, the two versions should be in the same sequence.

(b) Attachments should conform with the following naming convention:

(i) All attachments relating to a single filing must have the same root name,

which would be the "document name" given by the filer;

(ii) Each attachment should be called a segment and must be numbered sequentially in the order that they appear within the document, followed by the total number of segments (e.g., "Posthearing Brief Segment 1 of 13").

(c) Use logical break points in creating attachments. Avoid breaking attachments in the middle of a section (e.g., main textual document, exhibit, appendix) of the filing. An entire section should be contained in a single attachment, if possible.

(d) A single document of less than 5 megabytes should not be broken into multiple attachments.

(e) The main textual document (e.g., brief, petition, motion) should be contained in a separate attachment from material appended to the filing (e.g., exhibits), unless the entire document is less than 5 megabytes. Cover letters need not be filed separately from the main textual document.

(f) Material appended to the main textual document (e.g., exhibits, appendices) may be combined into a single attachment, as long as the entire attachment does not exceed 5 megabytes in size.

(9) When redacting BPI or CBI from a document, you should use redaction methodology that does not change the pagination of the public version, when compared with the BPI or CBI version.

K. Signatures:

(1) A document filed with the Commission electronically shall be deemed to be signed by a person (the "signatory") when the document identifies the person as a signatory and the filing complies with subparagraph (2), (3) or (4). When the document is filed with the Commission in accordance with any of these methods, the filing shall bind the signatory as if the document were physically signed and filed, and shall function as the signatory's signature, whether for the purpose of complying with the Commission's rules, to attest to the truthfulness of an affidavit or declaration, or for any other purpose.

(2) In the case of a signatory who is a registered user as described in paragraph II (B)(1), such document shall be deemed signed, regardless of the existence of a physical signature on the document, provided that such document is filed using the user ID and password of the signatory. The page on which the physical signature would appear if filed in non-electronic form must be filed electronically, but need not be filed in an optically scanned format displaying the signature of the signatory. In such cases, the

electronically filed document shall indicate a typed "electronic signature", e.g., "s/ Jane Doe".

(3) In the case of a signatory who is not a registered user, or who is a registered user but whose user ID and password will not be utilized in the electronic filing of the document, such document shall be deemed signed and filed when the document is physically signed by the signatory, the document is filed electronically, and the signature page is filed in optically scanned form pursuant to and consistent with the EFP.

(4) *In the case of a document to be signed by two or more persons, the following procedure shall be used:*

(a) The filing person shall initially confirm that the content of the document is acceptable to all persons required to sign the document. The filing person then shall attest that original signatures have been obtained from each of the other signatories on a paper copy of the document. If the filing person complies with the foregoing requirements, the Commission shall presume that the filing person has the authority to file the document on behalf of all other persons required to sign such document.

(b) The filing person shall then file the document electronically, indicating the original signatures that have been obtained, e.g., "s/ Jane Doe," "s/John Doe," etc.

(c) The filing person must retain the hard copy of the document containing the original signatures until the earlier of: (i) The Commission deadline for destruction of APO materials, if applicable; or (ii) one year after the conclusion of the investigation and resulting appeals.

(d) For a document that requires a signature in the presence of a notary public (e.g., affidavits), the document instead should contain an unsworn declaration clause to be signed by the signatory under penalty of perjury. The language for unsworn declarations under penalty of perjury is provided in 28 U.S.C. 1746.

L. Limitation on Service of Electronic Documents:

Documents filed electronically in all pending matters before the Commission, except for proceedings under section 337 of the Tariff Act of 1930, are not to be served electronically on other parties without the prior agreement of the Secretary. In the case of proceedings before an administrative law judge under section 337 of the Tariff Act of 1930, the presiding administrative law judge shall determine whether electronic service of documents by parties will be permitted in that

proceeding. Parties may only effect electronic service on recipients who have provided written consent thereto to the Secretary or the presiding administrative law judge. Persons who have filed documents electronically with the Commission must comply with the rules in effecting service of the electronically filed document on parties in accordance with 19 CFR 201.16. All electronically filed documents must be accompanied by a certificate of service.

M. Copyright and Other Proprietary Rights:

(1) The website shall bear a prominent notice as follows: "The contents of each filing in EDIS-II may be subject to copyright and other proprietary rights (with the exception of the notices, orders, and opinions of the ITC). It is the user's obligation to determine and satisfy copyright or other use restrictions when publishing or otherwise distributing material found in EDIS-II. Transmission or reproduction of protected items beyond that allowed by fair use requires the written permission of the copyright owners. Users must make their own assessments of rights in light of their intended use."

(2) By filing any material with the Commission electronically, a person shall be deemed to consent to all uses of such materials by all parties to the action solely in connection with and for the purposes of the action, including the electronic filing in the action (by a party who did not originally file or produce such materials) of portions, excerpts, quotations, or selected exhibits from such filed materials as part of motion papers, pleadings or other filings with the Commission.

(3) Any dispute that arises among persons regarding the use of materials subject to copyright and other proprietary rights must be resolved among the persons themselves, without the Commission's involvement.

N. Official record of commission proceedings:

The electronic version of any document filed by a party in a Commission proceeding will be considered the "official version" for purposes of compiling the record in a Commission proceeding. Materials referenced by hyperlink in an electronic document will not be considered part of the document or of the record in a Commission proceeding unless they are reproduced in their entirety in an attachment to the document. The filer, however, must take into consideration paragraph II(M) when reproducing such materials.

III. Duration

A. This Handbook is effective as of the date specified in a notice published in the **Federal Register**. These electronic filing procedures shall remain in effect until superceded or rescinded.

B. The Secretary shall, from time to time, amend this Handbook as necessary.

(Authority: 19 CFR 201.8(f))

By Order of the Commission.

Issued: November 4, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02-28405 Filed 11-7-02; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701-TA-431 (Preliminary)]

Drams and Dram Modules From Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase countervailing duty investigation No. 701-TA-431 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Korea of DRAMs and DRAM modules, provided for in subheadings 8473.30.10 and 8542.21.80 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Korea. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B)), the Commission must reach a preliminary determination in countervailing duty investigations in 45 days, or in this case by December 16, 2002. The Commission's views are due at Commerce within five business days thereafter, or by December 23, 2002.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: November 1, 2002.

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 investigation may be viewed on the Commission's electronic docket (EDISON-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted in response to a petition filed on November 1, 2002, by Micron Technology, Inc., Boise, ID.

Participation in the investigation and public service list. Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**.

A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.