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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
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Thursday, February 13, 1997

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB53

Common Crop Insurance Regulations; ELS Cotton Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of extra long staple (ELS) cotton. The intended effect of this action is to provide policy changes to better meet the needs of the insured.

DATES: Effective: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Stephen Hoy, Program Analyst, Research and Development Division, Product Development Branch, Federal Crop Insurance Corporation, at 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be not significant for the purposes of Executive Order No. 12866 and, therefore, this rule has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

The information collection requirements contained in these regulations were previously approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563–0003 at the proposed final rule stage.

The amendments set forth in this final rule contains information collections that have been cleared by OMB under the provisions of 44 U.S.C. chapter 35.

Following publication of the proposed rule, the public was afforded 60 days to submit written comments, data, and opinions on information collection requirements previously approved by OMB under OMB control number 0563–0003 through September 30, 1998. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of section 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity.

The insured must also annually certify to the previous years production or receive an assigned yield. The producer must maintain the production records to support the certified information for at least three years. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Tuesday, August 27, 1996, FCIC published a proposed rule in the Federal Register at FR 43999–44001 to amend the Common Crop Insurance Regulations (7 CFR part 457) by revising

7 CFR 457.105 effective for the 1997 and succeeding crop years.

Following publication of that proposed rule, the public was afforded 30 days to submit written comments, data, and opinions. A total of three comments were received from the crop insurance industry. The comments received and FCIC's responses are as follows:

Comment: Three comments received recommended that the written agreement should be continuous. One commenter recommended that written agreements be continuous if no substantive changes occur from one year to the next. Two commenters recommended that the valid period be stated in the agreement.

Response: Written agreements are, by design, temporary and intended to address unusual circumstances. If the condition for which a written agreement is needed exists each crop year, the policy or Special Provisions should be amended to reflect this condition. No change has been made to these provisions.

The contract change date for the 1997 crop year was November 30, 1996. These provisions are, therefore, not applicable until the 1998 crop year.

List of Subjects in 7 CFR Part 457

Crop insurance, ELS cotton.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR part 457, effective for the 1998 and succeeding crop years, to read as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

2. Section 457.105, in paragraph 1. *Definitions,* paragraphs (j), (o)(2), and (q) are revised to read as follows:

§ 457.105 Extra long staple cotton crop insurance provisions.

* * * * *

1. *Definitions.*

* * * * *

(j) *Planted acreage*—Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed which has been properly prepared for the planting method and production practice. Cotton must be planted in rows to be considered planted. Planting in any other manner will be considered as a failure to follow recognized good farming practices and any loss of production will not be insured unless otherwise provided by the Special Provisions or by written agreement to insure such crop. The yield conversion factor normally applied to non-irrigated skip-row cotton acreage will not be used if the land between the rows of cotton is planted to any other spring planted crop.

* * * * *

(o) * * *

(1) * * *

(2) Qualifies as a skip-row planting pattern as defined by the Farm Service Agency (FSA) or a successor agency.

* * * * *

(q) *Written agreement*—A written document that alters designated terms of a policy in accordance with section 13.

* * * * *

2. Section 457.105 in paragraph 2. *Unit Division,* paragraph (d)(1) and the first paragraph of (d)(2) are revised to read as follows:

2. Unit Division.

* * * * *

(d) * * *

(1) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified Section. In the absence of Sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands an equivalent of Sections for unit purposes. In areas which have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(2) *Optional Units on Acreage Including Both Irrigated and Non-Irrigated Practices:* In addition to, or instead of, establishing optional units by section, section equivalent, or FSA Farm Serial Number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same section, section equivalent, or FSA Farm Serial Number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based, except that the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be considered part of the unit containing the irrigated acreage. However, non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided that all other requirements of this section are met.

* * * * *

3. Section 457.105 paragraph 5. *Cancellation and Termination Dates* is revised to read as follows:

5. *Cancellation and Termination Dates.*

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Common Crop Insurance Policy (§ 457.8), the cancellation and termination dates are:

States	Cancellation and termination dates
New Mexico	March 15.
All other States	Feb. 28.

* * * * *

8. Section 457.105 is amended by adding a new paragraph 13 to read as follows:

13. Written Agreement.

Designated terms of this policy may be altered by written agreement. The following conditions will apply:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 13(e).

(b) The application for written agreement must contain all terms of the contract between the insurance provider and the insured that will be in effect if the written agreement is not approved.

(c) If approved, the written agreement must include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election.

(d) Each written agreement will only be valid for one year. If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy.

(e) An application for written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance

with the policy and written agreement provisions.

Signed in Washington DC, on February 6, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–3329 Filed 2–12–97; 8:45 am]

BILLING CODE 3410–FA–P

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

Removal of U.S. Grade Standards; Procedures for Development and Maintenance of Voluntary Grade Standards

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is adopting as a final rule, without change, its interim final rule removing the voluntary U.S. grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils from the Code of Federal Regulations (CFR). The voluntary standards and all subsequent revisions or new standards will be made available in a separate publication, and will appear as notices in the Federal Register for the public to comment on. This action is part of the National Performance Review program to eliminate unnecessary regulations.

In addition, this rule specifies in the CFR the procedures, which were set out in the February 29, 1996, interim rule, that GIPSA will follow in developing, issuing, revising, suspending or terminating voluntary U.S. grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils.

EFFECTIVE DATE: February 14, 1997.

FOR FURTHER INFORMATION CONTACT: Sharon Vassiliades, USDA, GIPSA, Room 0623-S, STOP 3649, 1400 Independence Avenue, S.W., Washington, D.C. 20250-3649; FAX (202) 720–4628.

SUPPLEMENTARY INFORMATION: In the February 29, 1996, Federal Register (61 FR 7687), GIPSA published an Interim Final Rule with Request for Comments announcing removal from the CFR of voluntary standards dealing with the U.S. grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils which may be used to describe the quality of these agricultural commodities as valued in the marketplace. No comments were received in response to this Interim Final Rule. GIPSA also will ensure that the public will have an opportunity to comment on any future proposed, new, or revised voluntary standards by publishing such standards in the ''Notices'' section of the Federal Register.

Executive Order 12866

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This rule is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

Effects on Small Entities

GIPSA has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Removal of the voluntary standards from the CFR will not adversely affect interested persons. On the contrary, the U.S. pulse industry (beans, peas, and lentils) is expected to benefit from this action because it will provide for more timely improvements to the bean, pea, and lentil standards. Furthermore, those persons who apply the standards and most users of the inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act.

The primary user of pulse inspection services is the U.S. government. It is estimated that between 80 and 90 percent of all inspections are performed (directly or indirectly) at the request of either the USDA's Farm Service Agency or Foreign Agricultural Service, or the U.S. Agency for International Development. Approximately 20 percent of all inspections are performed at the request of major bean, pea, and lentil shippers who would not be considered small entities, as defined by the Small Business Administration (13 CFR 121.60); and about 3 percent of the service requests originate from other interested parties, such as producers. But regardless of who requests the service, the standards are applied equally to all entities. Use of the standards for Beans, Whole Dry Peas, Split Peas, and Lentils is voluntary and small entities may avoid incurring any economic impact by not employing the standards. Although this action will remove standards for Beans, Whole Dry Peas, Split Peas, and Lentils from the CFR, small entities should see no changes as the standards will still be administered in a manner to ensure public input to their formulation. Further, no costs are expected to result from this action for handlers or producers and benefits derived from this action may be passed on to consumers.

Further, this final rule includes in the CFR procedures to be used by GIPSA in developing, issuing, revising, suspending, or terminating voluntary U.S. grade standards. These procedures provide for public input and participation and will not adversely affect small or large entities.

Paperwork Reduction Act of 1995

In accordance with the provisions of the Paperwork Reduction Act, the information collection requirements contained in Part 868 have been previously approved by the Office of Management and Budget under control number 0580–0013.

Background

GIPSA is delegated by the Secretary of Agriculture under the Agricultural Marketing Act of 1946 (AMA), to provide programs for Federal grading/certification services and to develop and establish efficient marketing methods and practices for designated agricultural commodities such as Beans, Whole Dry Peas, Split Peas, and Lentils. For many years, these agricultural programs have facilitated the marketing of agricultural commodities by developing official U.S. grade standards which provide uniform language that may be used to describe the characteristics of commodities as valued by the marketplace. The AMA standards are widely used in private contracts, government procurement, marketing communication and, for some commodities, consumer information. Through the years, the standards have been promulgated as regulations and codified in the CFR.

Rapid changes in consumer preferences, together with associated changes in commodity characteristics, processing technology, and marketing practices have out paced the revision or issuance of standards. As a result, industry and the marketplace could be burdened with outdated trading language. The President's regulatory review initiative provided an impetus to develop new approaches to more effectively meet the needs of U.S.

industry, government agencies, and consumers and still reduce the regulatory burden. To meet this initiative, the February 29, 1996, interim final rule (61 FR 7687) removed from the CFR regulations with respect to the official grade standards except those used to implement government price support. The regulations removed cover Beans, Whole Dry Peas, Split Peas, and Lentils. The grade standards for Rice will continue to appear in the CFR.

Procedures for Maintenance of Voluntary U.S. Grade Standards

To ensure that future voluntary U.S. grade standards will be developed, issued, and revised in a uniform manner that ensures a fair and open process, GIPSA is placing in the CFR the procedures it will follow in developing, issuing, revising, suspending or terminating voluntary U.S. grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils.

In developing or revising existing grade standards, the Administrator must first determine that a new or revised standard is needed to facilitate trade in a particular commodity. Second, because use of the standards is voluntary, there must be demonstrated interest and support from the affected industry or other interested parties. And third, the standards must be practical to use.

Initial requests for development or revision of a standard may come from the industry, trade, or consumer groups, State departments of agriculture, the U.S. Department of Agriculture, or others. Once a request has been received, GIPSA will coordinate procedures to gather information needed to move forward with the new or revised standards. After this process is completed, a notice of proposed standards change will be published in the Federal Register to solicit comment from any interested parties (normally 30 to 60 days). After evaluating the comments received from interested parties, GIPSA will determine whether to proceed, develop a new proposal, or terminate the process. The public will be informed through a news release and notice in the Federal Register.

In addition to publication in the Federal Register, upon request, GIPSA will distribute copies of each standard as a pamphlet or other means under the direction of the Administrator of GIPSA.

The above procedures, which were discussed and explained in the interim final rule published in the Federal Register on February 29, 1996 (61 FR 7687), are set forth in a new Subpart B titled Marketing Standards.

Good cause is found for not postponing the effective date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553). This action makes final an interim final rule removing voluntary U.S. grade standards. This action also specifies in the CFR the procedures, as discussed in the interim rule, which GIPSA will follow in developing, issuing, revising, suspending or terminating such standards. No comments were received concerning the interim final rule. No useful purpose would be served by delaying the effective date of this final rule.

List of Subjects in 7 CFR Part 868

Administrative practice and procedures, Agricultural commodities, Beans, Whole Dry Peas, Split Peas, and Lentils.

For the reasons set forth in the preamble, the interim rule published on February 29, 1996 (61 FR 7687), is confirmed as a final rule and 7 CFR Part 868 is amended by adding a new Subpart B titled Marketing Standards.

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

1. The authority citation for Part 868 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 et seq.)

2. A new Subpart B (§§ 868.101 through 868.103) is added to read as follows:

Subpart B—Marketing Standards

Sec.

§ 868.101 General information.

The Grain Inspection, Packers and Stockyards Administration (GIPSA) of the U.S. Department of Agriculture (USDA) facilitates the fair and efficient marketing of agricultural products by maintaining voluntary grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils, which provide a uniform language for describing the quality of these commodities in the marketplace. These standards may cover (but are not limited to) terms, classes, quality levels, performance criteria, and inspection requirements. Procedures contained in this part set forth the process which GIPSA will follow in developing, issuing, revising, suspending, or terminating the U.S. standards for Beans, Whole Dry Peas, Split Peas, and Lentils. Communications about GIPSA standards in general should be addressed to the Administrator, GIPSA, USDA, 1400 Independence Avenue, S.W., Washington, D.C. 20250–3601.

§ 868.102 Procedures for establishing and revising grade standards.

(a) GIPSA will develop, revise, suspend, or terminate grade standards if it determines that such action is in the public interest. GIPSA encourages interested parties to participate in the review, development, and revision of grade standards. Interested parties include growers, producers, processors, shippers, distributors, consumers, trade associations, companies, and State or Federal agencies. Such persons may at any time recommend that GIPSA develop, revise, suspend, or terminate a grade standard. Requests for action should be in writing, and should be accompanied by a draft of the suggested change, as appropriate.

(b) GIPSA will:

(1) Determine the need for new or revised standards;

(2) Collect technical, marketing, or other appropriate data;

(3) Conduct research regarding new or revised standards, as appropriate; and

(4) Draft the proposed standards.

(c) If GIPSA determines that new standards are needed, existing standards need to be revised, or the suspension or termination of existing standards is justified, GIPSA will undertake the action with input from interested parties.

§ 868.103 Public notification of grade standards action.

(a) After developing a standardization proposal, GIPSA will publish a notice in the Federal Register proposing new or revised standards or suspending or terminating existing standards. The notice will provide a sufficient comment period for interested parties to submit comments.

(b) GIPSA will simultaneously issue a news release about these actions, notifying the affected industry and general public. GIPSA will also distribute copies of proposals to anyone requesting a copy or to anyone it believes may be interested, including other Federal, State, or local government agencies.

(c) All comments received within the comment period will be made part of the public record maintained by GIPSA, will be available to the public for review, and will be considered by GIPSA before final action is taken on the proposal.

(d) Based on the comments received, GIPSA's knowledge of standards,

grading, marketing, and other technical factors, and any other relevant information, GIPSA will decide whether the proposed actions should be implemented.

(e) If GIPSA concludes that the changes as proposed or with appropriate modifications should be adopted, GIPSA will publish the final changes in the Federal Register as a final notice. GIPSA will make the grade standards and related information available in printed form and electronic media.

(f) If GIPSA determines that proposed changes are not warranted, or otherwise are not in the public interest, GIPSA will either publish in the Federal Register a notice withdrawing the proposal, or will revise the proposal and again seek public input.

Dated: February 7, 1997.

David R. Shipman,

Acting Administrator.

[FR Doc. 97–3567 Filed 2–12–97; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS No. 1602–92]

Classification of Certain Scientists of the Commonwealth of Independent States of the Former Soviet Union and the Baltic States as Employment-Based Immigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, an interim rule published in the Federal Register by the Immigration and Naturalization Service (''the Service'') on October 19, 1995, that allows certain scientists and engineers from the former Soviet Union to apply for permanent residence under the Soviet Scientist Act of 1992. This is necessary to clearly identify those scientists who qualify for permanent resident status under the Soviet Scientists Immigration Act of 1992.

EFFECTIVE DATE: February 13, 1997.

FOR FURTHER INFORMATION CONTACT: Michael W. Straus, Adjudications Officer, Immigration and Naturalization Service, Room 3214, 425 I Street NW., Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION:

Background

The Soviet Scientists Immigration Act of 1992 (SSIA), Public Law 102–509, dated October 24, 1992, provides that up to 750 immigrant visas may be allotted under section 203(b)(2)(A) of the Immigration and Nationality Act (Act) to eligible scientists of the independent states of the former Soviet Union and the Baltic states, by virtue of their expertise in nuclear, chemical, biological, or other high-technology fields or their current work on nuclear, chemical, biological, or other high-technology defense projects. The provisions of the SSIA terminated on October 24, 1996.

On October 19, 1995, at 60 FR 54027–30, the Service published an interim rule with request for comments in the Federal Register. The October 19, 1995, interim rule revised a previous interim rule published on May 27, 1993, at 58 FR 30699–701, on the ground that revisions in the previous interim rule were necessary to improve the visa petition process, and responded to written comments submitted in response to the May 27, 1993, interim rule. Interested persons were invited to submit written comments on or before December 18, 1995 to the October 19, 1995, interim rule. The Service received one comment.

Comments

The following discussion summarizes the issues which have been raised relating to the interim rule and provides the Service's position on the issues.

Termination

The interim rule provides that the Service must approve an SSIA petition on or before October 24, 1996, or when the Service has approved a total of 750 petitions on behalf of eligible scientists, whichever date is earlier. See 8 CFR 204.10(a). The commenter contended that the Service's requirement that a visa petition filed under the SSIA be approved on or before October 24, 1996, would result in inequities due to the difference in processing times among the service centers. The SSIA, however, states that the Attorney General's authority to designate a class of eligible scientists from the former Soviet Union for purposes of section 203(b)(2)(A) of the Act terminates 4 years after the enactment date of the SSIA. The Service, therefore, has no authority to approve an SSIA petition after October 24, 1996.

Jurisdiction

The 1995 interim rule states that SSIA applicants must file the petition at a service center. The commenter objected, arguing that such a procedure could delay the petitioner's ability to obtain employment authorization and adjustment of status. The commenter suggested that, after a combined filing of an I–40 petition (for SSIA classification) and an I–485 application for adjustment of status at a local office, the I–140 petition could be forwarded to a service center for adjudication. The commenter contended that this would allow SSIA applicants to apply immediately for employment authorization and, thus, attract more qualified scientists from the former Soviet Union.

As noted in the interim rule, the Service has determined that centralizing the adjudication of SSIA petitions at service centers would enhance coordination with other government agencies in adjudicating these petitions. In addition, centralized adjudication makes sense in light of the expertise developed by the service centers in adjudicating these types of petitions. The Service believes that the SSIA has already created a sufficiently powerful inducement for qualified scientists to immigrate to the United States by waiving the job offer, labor certification, and minimum eligibility requirements under section 203(b)(2) of the Act. The fact that, under the interim rule, SSIA applicants who are present in the United States must have an approved SSIA petition before becoming eligible to apply for adjustment of status, and thus, for employment authorization under 8 CFR 274.a.12(c)(9), has little, if any, impact on the basic attractiveness of the SSIA to qualified scientists. Moreover, the provision requiring adjudication of SSIA petitions at service centers would have no effect on SSIA petitioners who are not present in the United States. Accordingly, no change will be made in the final rule.

Definition of Eligible Scientist

The interim rule amended the definition of eligible scientists and engineers to include those scientists or engineers who have expertise in a high technology field which is clearly applicable to the design, development, and production of ballistic missiles, nuclear, biological, chemical, or other high-technology weapons of mass destruction. See 8 CFR 204.10(d). The previous rule defined eligible scientist or engineers as those who have expertise in nuclear, chemical, biological, or other high technology fields. The commenter argued that the

insertion of the term ''weapons of mass destruction'' in place of the term ''defense projects'' used in the statute limits the SSIA applicant's work experience to a specific type of weaponry not enumerated in the statute and is, therefore, ultra vires. The commenter further contended that the statute states that either expertise or experience with military-related projects in the former Soviet Union qualify a scientist or engineer for SSIA benefits.

Section 2(3)(B) of the SSIA, in part, defines eligible scientists as scientists or engineers who have expertise in nuclear, chemical, biological, or other high technology fields or who are working on nuclear, chemical, biological, or other high-technology defense projects, or are working on nuclear, chemical, biological, or other high-technology defense projects, as defined by the Attorney General. In the interim rule, the Service, employing the Attorney General's express authority to define eligible scientists, modified the definition to reflect that the expertise need not be related to a specific defense project if the expertise was in a field which could be applied to the development of weapons of mass destruction. As discussed in the preamble to the interim rule, this modification was necessary to clarify Congress' intent to include in the SSIA those scientists who ''have specialized in weapons of mass destruction.'' See 60 FR 54028, citing 138 Cong. Rec. S1249 (daily ed. Feb. 6, 1992). Accordingly, the Service will not change the definition of eligible scientists.

The commenter also criticized the Service from requiring any letters from United States Government agencies be from the head of the agency or a duly appointed designee. See 8 CFR 204.10(e)(2)(ii). The commenter argued that this provision narrows the pool of experts available to an applicant and makes it more difficult to obtain a letter from a Government agency. As noted in the interim rule, this provision was necessary to enhance the reliability of endorsements issued by Government agencies. See 60 FR 54029. This provision, however, still allows SSIA petitioners, as an alternative to obtaining a letter from a U.S. Government agency, to submit two letters from nationally or internationally recognized experts to satisfy this evidentiary requirement.

The interim rule requires a SSIA petitioner to submit corroborative evidence of claimed expertise including the official labor book, any significant awards or publications and other comparable evidence or an explanation of why such evidence cannot be obtained. See 8 CFR 204.10(e)(2)(iii). The commenter contended that the requirement that the petitioner submit proof of any significant awards or publications is superfluous, since the petitioner must submit his or her official labor book or Trudavaya Knizhka, which records most such awards. The purpose of this regulatory provision is merely to make it clear that, if an applicant has awards noted in his or her official labor book and wishes to have the Service consider such awards as evidence of the alien's qualifications, the applicant should provide separate proof of receipt of such an award unless it is unavailable. Accordingly, no changes have been made in response to this comment.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule will not, if promulgated, have a significant adverse economic impact on a substantial number of small entities. This rule merely adopts interim regulations concerning the immigration of up to 750 scientists from the former Soviet Union as final. It will not significantly change the number of persons who immigrate to the United States. Any impact on small business entities will be, at most, indirect and attenuated.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined in section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Accordingly, the interim rule amending 8 CFR part 204, which was published in the Federal Register at 60 FR 54027–54030 on October 19, 1995, is adopted as a final rule without change.

Dated: February 4, 1997.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 97–3589 Filed 2–12–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–99–AD; Amendment 39–9928; AD 97–02–08 R1]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80 and C–9 (Military) Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9, DC–9–80 and C–9 (military) series airplanes, and Model MD–88 airplanes. The AD currently requires either the installation of external protective doublers between the outboard flight spoiler actuators and the aft spar webs of the wings, or replacement of the pistons of the outboard flight spoiler actuators with improved pistons. This action corrects a part number specified for flight spoiler actuator assembly that is acceptable for installation on these airplanes. This action is necessary to ensure that operators who previously have installed assemblies with this part number will be given proper credit for that installation, and will not be required to perform additional, unnecessary work to comply with the requirements of the AD.

DATES: Effective March 4, 1997.

The incorporation by reference of certain publications listed in the

regulations was previously approved by the Director of the Federal Register as of March 4, 1997 (62 FR 3985, January 28, 1997).

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5237; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: On January 14, 1997, the FAA issued AD 97–02–08, amendment 39–9893 (62 FR 3985, January 28, 1997), which is applicable to certain McDonnell Douglas Model DC–9, DC–9–80 and C–9 (military) series airplanes, and Model MD–88 airplanes. That AD requires that operators of these airplanes either:

1. Install external protective doublers between the outboard flight spoiler actuators and the aft spar webs of the wings; or

2. Replace the pistons of the outboard flight spoiler actuators with improved pistons.

That action was prompted by reports of failure of the piston of the outboard flight spoiler actuator due to fatigue at the clevis end of the upper lug mounting hole of the piston. The actions specified by this AD are intended to prevent such failure of the piston and the consequent puncturing of the aft spar web, which could result in fuel leakage and reduced structural integrity of the wings.

Actions Since Issuance of the AD

Recently, the FAA has become aware of the fact that, due to a typographical error when the AD was published, an incorrect part number appeared in the text of the rule. Specifically, Note 3 of paragraph (a) stated that installation of McDonnell Douglas flight spoiler actuator assemblies, having part number *5915900–5525*, on the right and left wings prior to the effective date of the AD was considered acceptable for compliance with the requirements of paragraph (a). However, the part number cited was erroneous. The correct part number is *5913900–5525*.

Corrections Necessary to the Current AD

The FAA has determined that it is appropriate to take action to revise AD 97–02–08 to correct the part number of the flight spoiler actuator assemblies, referred to in Note 3 of the AD, to ''5913900–5525.'' This correction will ensure that operators who previously have installed assemblies with this part number will be given proper credit for that installation, and will not be required to perform additional, unnecessary work to comply with the requirements of the AD.

Accordingly, action is taken herein to correct the error and to correctly add the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13). The effective date of the rule remains March 4, 1997.

The final rule is being reprinted in its entirety for the convenience of affected operators.

Impact of the Correction

Since this action only corrects a part number of an installation that is optional on the affected airplanes, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9893 (62 FR 3985, January 28, 1997), and by adding a new airworthiness directive (AD), amendment 39–9928, to read as follows:

97–02–08 R1 McDonnell Douglas: Amendment 39–9928. Docket 96–NM–99–AD. Revises AD 97–02–08, amendment 39–9893.

Applicability: Model DC–9, Model DC–9–80 and C–9 (military) series airplanes, and Model MD–88 airplanes; as listed in McDonnell Douglas Service Bulletin DC9–27–300, Revision 02, dated June 29, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leakage and reduced structural integrity of the wings due to puncturing of the wings by a failed piston of the outboard flight spoiler actuator, accomplish the following:

(a) Prior to the accumulation of 5,000 landings after the effective date of this AD, accomplish the actions specified in either paragraph (a)(1) or (a)(2) of this AD, in accordance with McDonnell Douglas Service Bulletin DC9–27–300, Revision 02, dated June 29, 1995.

Note 2. Accomplishment of the actions specified in this paragraph prior to the effective date of this AD in accordance with the original issue or Revision 1 of McDonnell Douglas Service Bulletin 27–300 is considered acceptable for compliance with this paragraph.

Note 3: Installation of McDonnell Douglas flight spoiler actuator assembly, part number (P/N) 5913900–5525, on the right and left wings prior to the effective date of this AD is considered acceptable for compliance with the requirements of this paragraph.

(1) Install external protective doublers between the outboard flight spoiler actuators and the aft spar webs of the left and right wings; or

(2) Replace the pistons of the outboard flight spoiler actuators on the left and right wings with improved pistons.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) Except as specified in Note 2 of this AD, the actions shall be done in accordance with McDonnell Douglas Service Bulletin DC9–27–300, Revision 02, dated June 29, 1995. This incorporation by reference was approved by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, as of March 4, 1997 (62 FR 3985, January 28, 1997). Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA,

Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment is effective on March 4, 1997.

Issued in Renton, Washington, on February 6, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–3534 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 96–AEA–12]

Amendment to Class E Airspace; Hudson, NY

AGENCY: Federal Aviation Administration (FAA)DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace at Hudson, NY, to accommodate a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 21 at Columbia County Airport. This amendment also corrects the geographic position of Columbia County Airport published as a Notice Of Proposed Rulemaking in the Federal Register November 27, 1996 (61 FR 60238). The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 9001 UTC, March 27, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Frances Jordan, Airspace Specialist, Operations Branch, AEA–530, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On November 27 1996, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class E airspace at Hudson, NY, (61 FR 60238). This action would provide adequate Class E airspace for IFR operations at Columbia County Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Class E airspace areas designations are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Reuglations (14 CFR Part 71) modifies Class E airspace area at Hudson, NY, to accommodate a GPS RWY 21 SIAP and for IFR operations at Columbia County Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated Septemeber 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

AEA NY AEA E5 Hudson, NY [Revised]

Columbia County Airport, NY
(Lat. 42°17′29″ N, long. 73°42′37″ W)
Philmont NDB
(Lat. 42°15′10″ N, long. 73°43′37″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Columbia County Airport and within 14.8-mile radius of Columbia County Airport extending clockwise from a 025° bearing to a 180° bearing from the airport and within 3.1 miles each side of a 194° bearing from the Philmont NDB extending from the 7-mile radius to 10 miles south of the NDB and within 7 miles each side of the 012° bearing from the airport extending from the 7-mile radius to 17 miles north of the airport, excluding the portion that coincides with the Albany, NY 700 foot Class E airspace area.

* * * * *

Issued in Jamaica, New York on February 3, 1997.

James K. Buckles,

Acting Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–3670 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–AGL–12]

Establishment of Class E Airspace; Gettysburg Municipal Airport; Gettysburg, SD; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the bearing description of a final rule that was published in the Federal Register on December 16, 1996 (61 FR 65939), Airspace Docket No. 96–AGL–12. The final rule established Class E airspace at Gettysburg, SD.

EFFECTIVE DATE: 0901 UTC, March 27, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018, telephone: (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 96–31869, Airspace Docket No. 96–AGL–12, published on December 16, 1996 (61 FR 65939) established the description of the Class E airspace area at Gettysburg, SD, and Gettysburg Municipal Airport, SD. An error was discovered in the bearing description for the Gettysburg Municipal Airport, SD; Class E airspace area. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the bearing description for the Class E airspace area at Gettysburg Municipal Airport, SD, as published in the Federal Register on December 16, 1996 (61 FR 65939), (FR Doc. 96–31869), is corrected as follows:

PART 71—[CORRECTED]

§ 71.1 [Corrected]

AGL SD E5 Gettysburg, SD [Corrected]

On page 65940, in column 2, in the Class E airspace designation for Gettysburg Municipal Airport incorporated by reference in § 71.1, correct ''323 bearing from'' to read ''143° bearing from''.

Issued in Des Plaines, IL on January 17, 1997.

Maureen Woods,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 97–3234 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28803; Amdt. No. 1781]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provided safe and efficient use of the navigable airspace and to promote safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4. and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPS, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on February 7, 1997.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instruction Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective March 27, 1997*

Ambler, AK, Ambler, GPS RWY 36, Orig
Klawock, AK, Klawock, NDB/DME RWY 1, Orig
St. Paul Island, AK, St Paul Island, MLS RWY 18, Orig
Anchorage, AK, Anchorage Intl, GPS RWY 6L, Orig
Anchorage, AK, Merrill Field, GPS RWY 6, Orig, CANCELLED
Selawik, AK, Selawik, GPS RWY 27, Orig
Phoenix, AZ, Phoenix-Deer Valley Muni, GPS–A, Orig
Willcox, AZ, Cochise County, GPS A, Orig
Willcox, AZ, Cochise County, GPS RWY 21, Orig
Navato, CA, Gnoss Field, GPS RWY 13, Orig
Hollywood, FL, North Perry, GPS RWY 9R, Orig
Jacksonville, FL, Herlong, GPS RWY 25, Orig
Dalton, GA, Dalton Muni, GPS RWY 14, Orig
Dalton, GA, Dalton Muni, GPS RWY 32, Orig
Campbellsville, KY, Taylor County, GPS RWY 5, Orig
Baker, MT, Baker Muni, GPS RWY 31, Orig
Hudson, NY, Columbia County, GPS RWY 3, Amdt 1
Parkersburg, WV, Wood County Airport/Gill Robb Wilson Field, VOR OR GPS RWY 21, Amdt 15

* * * *Effective May 22, 1997*

Cullman, Al, Folsom Field, GPS RWY 20, Orig
New Port Richey, FL. Tampa Bay Executive, GPS RWY 8, Orig
Houma, LA, Houma-Terrebonne, GPS RWY 36, Orig
Lockport, NY, North Buffalo Suburban, GPS RWY 28, Orig
Grand Forks, ND, Grand Forks Intl, GPS RWY 26, Orig

Effective Upon Publication

Los Angeles, CA, Los Angeles Intl, ILS RWY 25L, Amdt 6
Los Angeles, CA, Los Angeles Intl, ILS RWY 25R, Amdt 10
New Orleans, LA, New Orleans Intl, (Moisant Field), RADAR–1, Amdt 15

[FR Doc. 97–3675 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28804; Amdt. No. 1782]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT:

Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

The amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the

following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on February 7, 1997.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
01/09/97	FL	Pensacola	Pensacola Regional	FDC 7/0198	ILS RWY 17, AMDT 13C...
01/10/97	OK	Oklahoma City	Will Rogers World	FDC 7/0141	ILS RWY 17L, ORIG–A...
01/10/97	OK	Oklahoma City	Will Rogers World	FDC 7/0142	ILS RWY 35R, AMDT 8A...
01/10/97	OK	Oklahoma City	Will Rogers World	FDC 7/0143	LOC BC RWY 35L, AMDT 10...
01/23/97	FL	Crystal River	Crystal River	FDC 7/0435	VOR/DME OR GPS–A ORIG...
01/24/97	MN	Dodge Center	Dodge Center	FDC 7/0450	VOR OR GPS–A AMDT 1...
01/24/97	MN	Minneapolis	Crystal	FDC 7/0449	VOR OR GPS–A, AMDT 9...
01/27/97	GA	Waycross	Waycross-Ware County	FDC 7/0487	NDB RWY 18 ORIG–A...
01/27/97	GA	Waycross	Waycross-Ware County	FDC 7/0488	ILS RWY 18 ORIG–A...
01/27/97	IL	Decatur	Decatur	FDC 7/0500	LOC BC RWY 24 AMDT 9...
01/29/97	IL	Bloomington	Bloomington/Normal	FDC 7/0523	ILS RWY 29 AMDT 8A...
01/30/97	CA	Red Bluff	Red Bluff Muni	FDC 7/0563	NDB RWY 33 AMDT 2...
01/30/97	IN	La Porte	La Porte Municipal	FDC 7/0587	GPS RWY 2 ORIG...
01/30/97	NE	Valentine	Valentine/Miller Field	FDC 7/0568	NDB OR GPS RWY 31, AMDT 6A...
01/31/97	NE	McCook	McCook Muni	FDC 7/0604	VOR OR GPS RWY 21, AMDT 4A...
01/31/97	NE	McCook	McCook Muni	FDC 7/0605	VOR OR GPS RWY 30, AMDT 10A...
01/31/97	NE	McCook	McCook Muni	FDC 7/0606	VOR RWY 12, AMDT 11A...
02/03/97	CO	Denver	Jeffco	FDC 7/0636	VOR/DME RWY 29L/R, ORIG...
02/03/97	ME	Belfast	Belfast Muni	FDC 7/0664	NDB RWY 15 AMDT 2...
12/05/96	KY	Covington	Covington/Cincinnati Northern Kentucky Intl.	FDC 6/9004	ILS RWY 9, AMDT 15...
12/05/96	KY	Covington	Covington/Cincinnati Northern Kentucky Intl.	FDC 6/9013	NDB OR GPS RWY 9, AMDT 13...

Note: The following CCP NOTAM was inadvertently omitted from TL97–01. The amendment was made in and is effective with the 30 Jan 97 publication of the Standard Approach Procedures.

FDC 6/8029/CNU/FI/P CHANUTE MARTIN JOHNSON, CHANUTE, KS. VOR/DME OR GPS–A, AMDT 9A * * * CHART MISSED APPROACH POINT AT CNU 5.5 DME. THIS IS VOR/DME OR GPS–A, AMDT 9B.

[FR Doc. 97–3674 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28805; Amdt. No. 1783]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAPs contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developing using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable Standard Instrument Approach Procedures (SIAPs) will be altered to include ''or GPS'' in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS procedure is developed, the procedure title will be altered to remove ''or GPS'' from these non-localizer, non-precision instrument approach procedure titles.) Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on February 7, 1997.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44710; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.27, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective 27 March, 1997*

Ambler, AK, Ambler, NDB or GPS RWY 36, Amdt 1A Cancelled

Ambler, AK, Ambler, NDB RWY 36, Amdt 1A
Hope, AR, Hope Muni, VOR/DME or GPS RWY 4, Amdt 6 Cancelled
Hope, AR, Hope Muni, VOR/DME RWY 4, Amdt 6
Hope, AR, Hope Muni, NDB or GPS RWY 16, Amdt 3 Cancelled
Hope, AR, Hope Muni, NDB RWY 16, Amdt 3
Monticello, AR, Monticello, Muni, VOR or GPS–A, Amdt 4A Cancelled
Monticello, AR, Monticello, Muni, VOR–A, Amdt 4A
Hays, KS, Hays Muni, VOR or GPS RWY 16, Amdt 3 Cancelled
Hays, KS, Hays Muni, VOR RWY 16, Amdt 3
Jefferson City, MO, Jefferson City Memorial, NDB or GPS RWY 12, Amdt 1 Cancelled
Jefferson City, MO, Jefferson City Memorial, NDB RWY 12, Amdt 1
Forsyth, MT, Tillitt Field, NDB or GPS RWY 26, Amdt 2A Cancelled
Forsyth, MT, Tillitt Field, NDB RWY 26, Amdt 2A
Glasgow, MT, Glasgow Intl, VOR or GPS RWY 12, Amdt 3 Cancelled
Glasgow, MT, Glasgow Intl, VOR RWY 12, Amdt 3
Alliance, NE, Alliance Muni, VOR or GPS RWY 12, Amdt 2B Cancelled
Alliance, NE, Alliance Muni, VOR RWY 12, Amdt 2B
York, NE, York Muni, NDB or GPS RWY 35, Amdt 3 Cancelled
York, NE, York Muni, NDB RWY 35, Amdt 3
Las Vegas, NV, McCarran Intl, VOR/DME or GPS RWY 1R, Orig-A Cancelled
Las Vegas, NV, McCarran Intl, VOR/DME RWY 1R, Orig-A
Chandler, OK, Chandler Muni, NDB or GPS RWY 35, Orig Cancelled
Chandler, OK, Chandler Muni, NDB RWY 35, Orig
Corvallis, OR, Corvallis Muni, NDB or GPS RWY 17, Amdt 1 Cancelled
Corvallis, OR, Corvallis Muni, NDB RWY 17, Amdt 1
Providence, RI, Theodore Francis Green State, VOR/DME or GPS RWY 16, Amdt 4 Cancelled
Providence, RI, Theodore Francis Green State, VOR/DME RWY 16, Amdt 4
Houston, TX, Ellington Field, VOR/DME or TACAN or GPS RWY 17R, Amdt 3 Cancelled
Houston, TX, Ellington Field, VOR/DME or TACAN RWY 17R, Amdt 3
Houston, TX, Ellington Field, VOR/DME or TACAN or GPS RWY 35L, Amdt 3 Cancelled
Houston, TX, Ellington Field, VOR/DME or TACAN RWY 35L, Amdt 3
Marfa, TX, Marfa Muni, VOR or GPS RWY 30, Amdt 4 Cancelled
Marfa, TX, Marfa Muni, VOR RWY 30, Amdt 4

[FR Doc. 97–3673 Filed 2–12–97; 8:45 am]
BILLING CODE 4910–13–M

Office of the Secretary

14 CFR Parts 217 and 241

[Docket No. OST–96–1049]

RIN 2105–AC34

International Data Submissions by Large Air Carriers (Form 41 Schedules T–100, T–100(f), and P–1.2)

AGENCY: Office of the Secretary, (DOT).
ACTION: Final rule.

SUMMARY: This rule reduces the period of confidential treatment of international nonstop segment and on-flight market data from three years to immediately following the Department's determination that the data base is complete, but no sooner than six months after the date of the data. It also requires collection of aircraft capacity data from foreign air carriers and rescinds the requirement that Group III (large U.S.) air carriers specify passenger enplanements, passengers transported, and seating capacity by cabin configuration. At the same time, the Department defers a final decision on changes to Schedule P–1.2—Statement of Operations. The issues pertinent to that schedule will be addressed in a supplementary notice of proposed rulemaking that will be completed soon.

In order to provide the reporting air carriers with additional time to make changes to their systems, we have established a period of several months between the effective date and compliance dates.

DATES: *Effective date*. This rule shall become effective on March 17, 1997.

Compliance dates: The compliance date for foreign air carriers to report the additional capacity data is July 1, 1997. The compliance date of the new reduced level of reporting for large U.S. Group III air carriers is July 1, 1997.

FOR FURTHER INFORMATION CONTACT: John Harman, Office of Aviation Analysis, or John Schmidt, Office of Aviation and International Economics, Office of the Assistant Secretary for Aviation and International Affairs, Office of the Secretary, U.S. Department of Transportation, 400 Seventh St. SW., Washington, DC 20590 at (202) 366–1059 or 366–5420, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 1996, the Department of Transportation published a notice of proposed rulemaking (NPRM) [61 FR 5963] to make the changes summarized above. We also distributed over 500 copies of the notice to the aviation community. This rulemaking action was taken on the Department's initiative in order to make data available for planning and efficient resource allocation purposes, to ensure the accuracy of the data that are used by the Department in administering its program responsibilities, and to eliminate collection of data that are no longer needed for regulatory purposes.

We received comments from five U.S. air carriers: American Airlines (American), Federal Express Corporation (FedEx), Trans World Airlines (TWA), United Air Lines (United), and USAir; one foreign air carrier, Alia—the Royal Jordanian Airline (Royal Jordanian); the Airports Council International—North America (ACI-NA) whose member airports handle approximately 90% of the passenger traffic in the United States; and the Air Line Pilots Association (ALPA), the bargaining representative of more than 44,000 pilots of 38 airlines. Most commenters supported the rulemaking.

Discussion of Comments

(1) Confidentiality of International T–100 Data

American, TWA, United, USAir, ACI-NA, and ALPA strongly supported reducing the period of confidentiality from three years to immediately following the Department's determination that the data base is complete, but no sooner than six months after the date of the data. In fact, American said that the data should be published as soon as the Department determines that the data base is complete and that there is little reason to impose an arbitrary requirement withholding release for a minimum of six months. United urged that the rule provide by its terms that the release date will be six months after submission and that any release beyond that date be the exception and not the rule. While that carrier appreciated that all data, both U.S. and foreign carrier, should be released at the same time and that database preparation delays may occur, it would prefer to have a fixed date for release rather than an open-ended one. With respect to American's suggestion, the Department did not initially propose to release international T–100 data in less than six months in deference to perceived carrier concerns that the data might be used for day-to-day competitive purposes and also because it expected that receipt, edit, and publication of the data from a large number of foreign carriers would take about six months. As regards United's view that we specify only a six month release date, while we fully expect to be in a position to make the data public

within that time frame, there may be circumstances where a slightly longer period of time may be required. We have, therefore, decided to retain our proposed language stating that we will release the data following a determination by the Department that the database is complete, but no sooner than six months after the date of the data.

Royal Jordanian argued that the Department should seriously reexamine its proposal to amend the confidentiality afforded detailed nonstop segment and on-flight market data reported by foreign carriers under the T–100 program, and upon review, should maintain the current three-year confidentiality period for such data. Royal Jordanian proposed that, in the event the Department does not re-think this proposal in its entirety, it should at least maintain the three-year confidentiality period for traffic data in single-carrier markets. Royal Jordanian relied on the Department's analysis in the 1988 rulemaking for support of its statement. In commenting that there are no compelling reasons to modify the current protections of confidentiality on T–100 data, Royal Jordanian argued that ''I–92 reports contain accurate data about the origin and destination traffic in specific international city-pair markets, which provides perfectly useful information for purposes of route planning and market analysis.''

In response, we note that the I–92 data are not origin-destination data at all, but rather a count of the number of passengers onboard any flight segment arriving in or departing from the United States. As Royal Jordanian, itself, remarked, T–100 data is more comprehensive. More specifically, T–100 data include onboard data for non-stop segments operated into and out of the United States by both foreign and U.S. carriers as well as similar data for U.S. carrier flight segments operated beyond the foreign gateway. Moreover, they also include on-flight market data (similar to origin-destination data in that they tally the passengers traveling between any two points on that flight) for those flights operating into and out of the U.S. In addition, T–100 data include capacity and operational data for these flights such as seats, departures, aircraft type, and block hours. T–100 reports include U.S.-Canadian traffic whereas 1–92 reports do not. Finally, T–100 incorporates both freight and passenger information whereas I–92 gives only the passenger cabin count. Because T–100 data are taken from airline records, there are other system data available to validate any questionable numbers. This provides a basis for expecting a high level of reliability. These advantages combined with the fact that Royal Jordanian has not documented any irrevocable harm would lead us to make the T–100 data available, as proposed, to planners, analysts, and other users.

FedEx (an all-cargo carrier) stated that the three-year rule should not be changed because the data collected are so specific and sensitive that they should not be revealed prematurely. It further argued that the data are only of use to the government, and the need for them is declining as the U.S. becomes more successful in obtaining open-skies agreements. With respect to FedEx's suggestion that the data collected are unnecessarily specific, the Department notes that international routes are still awarded on a city-to-city basis and are frequently limited-entry and that airports are planned and constructed at specific cities. With respect to FedEx's assertion that the data are sensitive, the discussion in the notice of proposed rulemaking recognized that the availability of data could be expected to change the nature of the marketplace and, in fact, make it more efficient and competitive. FedEx has not, however, documented its assertion that the more timely availability of data to all would create an unfair competitive advantage. In addition, FedEx did not rebut the carriers' or communities' needs for current market data to support negotiating positions and requests for route awards. ACI–NA and United described the airports' and carriers' needs for these data.

FedEx also stated that the three-year rule should not be changed because the data are so flawed and subject to so many differing interpretations that an earlier release may actually damage the interests that the Department is trying to promote. FedEx asserted that, while the T–100 system gathers detailed information on U.S. carriers' activities in foreign markets, much of the foreign carrier activity that is in direct competition with the U.S. carriers is not reported. It said that the T–100 system should not undercut the U.S. position at negotiations because of the lop-sided reporting structure, but should be used primarily for internal U.S. analysis, recognizing its shortcomings. All these comments apparently refer to the fact that U.S. carriers report all international market and segment records, while foreign carriers only report those market and segment records that have a U.S. point. In order that U.S. air carriers not be placed at a competitive disadvantage because of data disclosure incompatibility, the Department, in its notice of proposed rulemaking, proposed to continue to restrict availability of nonstop segment and on-flight market data for segments involving no U.S. points for three years. For example, individual U.S. carrier data between two foreign airports would be held confidential for three years. (On this same subject, American Airlines argued for expanded reporting by foreign carriers, including disclosure of 'behind' and 'beyond' totals for reportable 'on-flight' traffic.) With respect to FedEx's concerns about flawed data, the timely use and scrutiny of these data by industry practitioners, once they are removed from the veil of confidentiality, can be expected to have a positive effect on the quality of data filed.

(2) Reporting of Capacity Data by Foreign Air Carriers

ACI–NA, TWA, United, and USAir explicitly supported the collection of minimal capacity data from foreign carriers and no commenter objected to the collection of these data. Significantly, Royal Jordanian, the only foreign carrier to comment, did not oppose the collection. As discussed under (4) Other Subjects, American suggested that we require expanded reporting by foreign carriers including disclosure of ''behind'' and ''beyond'' totals for reportable on-flight traffic. (Foreign carriers currently do file ''beyond'' U.S. data if the market includes a U.S. point. For example, Japan Airlines reports Los Angeles-Sao Paulo operations.) In supporting our proposal, TWA stated that it is not unreasonable to require two additional data items from foreign carriers and that, even with the new items, the burden placed on foreign carriers will be no worse than the burden placed on U.S. carriers by foreign governments. Similarly, United emphasized the fact that our proposal removes a discriminatory aspect of the previous rule that imposed a greater burden on U.S. carriers than on their foreign competitors. Total capacity, both U.S. and foreign, is important to analyze adequacy of service in a given market. We will, therefore, adopt the proposal that foreign carriers report both available seats and available payload weight.

(3) Reduction of Data Reporting by Class of Service by U.S. Carriers

Only United and USAir explicitly supported the reduction of data reporting by class of service by U.S. carriers. As mentioned above, American argued for expanded reporting by foreign carriers, saying that little cost is incurred by complying with the existing

requirement to report passenger traffic and revenue by class of service while the reprogramming of data processing systems would impose an immediate burden. TWA did not believe that the Department's proposal would reduce reporting burden and did believe that it would deprive both the Department and the carriers of important information. The carrier suggested either requiring foreign carriers to report class of service information, restricting availability of the data only to those U.S. carriers that report it, or, in the extreme, collecting it and releasing it after six months despite foreign carriers' failure to provide similar information.

We are adopting our proposal to reduce the amount of data currently reported by the large Group III U.S. carriers by no longer requiring these carriers to report data by cabin configuration. In the NPRM, the Department stated that the proposal to reduce the number of data items would reduce the reporting burden on U.S. air carriers while providing for data comparability among all reporting carriers. Although American considered it unfortunate that we proposed to eliminate this level of detail and TWA stated that these data were very important, we find that the resulting comparability in reported data among all competing U.S. and foreign carriers with regard to this specific database outweighs the concerns raised by American and TWA. Moreover, since we find that the earlier release of data will be procompetitive, it is important, at the same time, to ensure that no carriers are adversely affected by a continuing requirement to report more detailed data than their competitors.

With regard to the Department's statement in the NPRM that the proposal to reduce the number of data items would reduce the reporting burden on U.S. air carriers, we have revised our position and we now acknowledge that American and TWA correctly pointed out that the proposal may produce an initial reporting burden. These carriers' comments have led us to assume that the reduction of the number of data elements may require some changes to computer programs that extract, process, and format the data for submission to the Department. We recognize that the impact of these changes will vary among airlines. However, no commenters (including American and TWA) submitted data that would help us to assess this burden. Our initial presumption is that changes to programs that involve relatively simple functions, such as data extraction and formatting, would not impose a significant burden. However, even if the required changes were significant, they would be one-time changes that would affect only the initial implementation. Over the long term, the reduced reporting requirements should lessen the total burden.

(4) Other Subjects

The commenters raised a number of other issues not directly relating to proposals made in the NPRM. These issues go beyond the scope of the current rulemaking, although there may be merit to some of them. With these issues in mind, we will continue to assess the quality of T–100 data received and ways to improve them. However, no action is being taken on the following subjects in this rulemaking.

FedEx asserted that the international air cargo data collected through the T–100 system is so severely flawed and unfair to U.S. carriers that the system should be abandoned. It suggested that the Department should seriously consider extending the exemption for cargo that presently covers domestic operations to the international sector. FedEx was specifically concerned about the reporting and publication of U.S. carrier Fifth Freedom data when similar data from foreign carriers is not collected or published. (American reflected this same concern when it requested expanded reporting by foreign carriers, including disclosure of ''behind'' and ''beyond'' totals for reportable ''on-flight'' data.) FedEx pointed out a similar data incompatibility that arises among vendors of international freight services when one company carries the freight on its own flights for the entire trip while another company (for example) carries the freight on its own flight(s) on the domestic part of the trip, but serves only as a freight forwarder, shipping its cargo on another carrier's flight(s), on the foreign part of the trip. FedEx also complained that the T–100 system only shows on-flight movements, so that any change in flight numbers results in either a double-counting problem (for U.S. carriers that transfer freight) or a gap in data (for freight moved off of a foreign carrier's flight originating in the U.S. onto a flight the does not touch the U.S.). The carrier noted that the on-flight market data only show where traffic is enplaned and deplaned, rather than its true origin. American urged the Department to require the same level of reporting from the foreign airlines as we require from U.S. carriers. Specifically, American suggested that we require expanded reporting by foreign carriers to disclose information on the ''behind'' and ''beyond'' totals for reportable on-flight traffic. Alternatively, American suggested that we create an enhanced origin and destination survey in which both U.S. and foreign carriers would be required to submit comparable data.

On another issue, ACI–NA urged the Department to require that commuter carriers operating aircraft with 19 or more seats file international data. They pointed out that no data are currently available on commuter services in transborder Canadian and Mexican markets and in U.S.-Caribbean markets, which are growing in importance. The Department recognizes the importance of these markets and the lack of available data. However, since the scope of this rulemaking applies only to large air carriers, the Department cannot apply these requirements to the commuter airline industry in this proceeding. Nevertheless, we will continue to monitor the need for and value of the data and will propose the necessary changes to reporting requirements that are needed to meet our analytical goals.

ACI–NA also urged the Department to add a requirement that airlines provide data on the citizen/alien breakout of their passengers. In support, they pointed out that the nationality data is key to calculating some of the direct and indirect benefits from foreign tourists and business travelers. They noted the precarious financial situation involving programs at the Department of Commerce, where the I–92 data showing passenger nationality are now produced, might have an impact on the currently available data. The timing of this rulemaking and the lack of resolution with regard to the future of the I–92 data, makes it impractical to consider the nationality issue as part of this rulemaking. Depending upon further developments with I–92 data, we may need to reconsider the matter.

TWA noted that the Department has not finalized its proposal of October 23, 1995, that U.S. carriers that are code sharing with foreign carriers be required to report both for the ticketing and operating carriers for code share traffic in their Origin and Destination reports. TWA urged the Department to act expeditiously to implement the new reporting requirements. This is beyond the scope of this rulemaking.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866, and therefore it was not reviewed by the

Office of Management and Budget. The Department has placed a regulatory evaluation that examines the estimated costs and effects of the rule in the docket.

The rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034), because it does not change Departmental policy concerning aviation information collection.

The economic impact of this regulation is insignificant. The change in confidentiality restriction has no impact at all on the reporting burden of the carriers. For large Group III U.S. air carriers, the changes in requirements for reporting passenger and capacity data will result in an initial burden for programming changes, but these changes are minor and involve one-time costs. Over the long term, these changes will reduce the reporting burden for these air carriers by approximately 96 hours annually.

On the other hand, the foreign air carriers will incur an initial and annual increase in reporting burden. However, the Department does not believe that the increased reporting burden will be significant or onerous because this regulation adds only two capacity data items, which are readily available from the carriers'' computerized data files or other easily accessible reference documents. In order to quantify broadly the increased burden, the Department assumed that each of the 176 foreign air carriers would submit two new data items each month and that the process of collecting and transmitting the data would take no more than one hour each month. The resulting hourly burden would not exceed 12 hours on an annual basis for any foreign air carrier, and the resulting total hourly burden on an annual basis for all the foreign air carriers as a group would be 2,112 hours. For all air carriers, this would be a net burden of 2,016 hours annually or $20,966 based on an estimated industry salary rate of about $10.40 an hour. (See 60 FR 61478, November 30, 1995.)

The benefits to the public, the industry, and the Department of accurate capacity data reported on a reliable and consistent basis, although unquantifiable, outweigh the limited increase in reporting burden and the small increase in cost.

Executive Order 12612

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 (''Federalism'') and DOT has determined the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

I certify this rule will not have a significant economic impact on a substantial number of small entities. The amendments would affect only large U.S. certificated air carriers and foreign air carriers with large certificated carriers defined as air carriers holding a certificate issued under 49 U.S.C. 41102, as amended, and that operate aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds or that conduct international operations.

Paperwork Reduction Act

The reporting and recordkeeping requirement associated with this rule is being sent to the Office of Management and Budget for approval in accordance with The Paperwork Reduction Act of 1995 (PL 104–113) under OMB NO: 2139–0040, formerly OMB NO: 2138–0040; *Administration:* Office of the Secretary; *Title:* T–100 International Data; *Need for Information:* Passenger and Capacity Information for Aviation Planning and Regulation; *Proposed Use of Information:* Electronic Dissemination to Transportation Planners and Analysts; *Frequency:* Monthly; *Burden Estimate:* 2,016 annual hours; *Average Burden Hours per Respondent:* 12 annual hours; *Estimated Number of Respondents:* 8 Air Carriers and 176 Foreign Air Carriers; *For Further Information Contact:* IRM Strategies Division, M–32, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4735. Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. This final rule contains information collection requirements that have been approved under OMB No. 2138–0040 and that expire on October 31, 1997.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2105-AC34 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 14 CFR Parts 217 and 241

Air carriers, Reporting and recordkeeping requirements.

Accordingly, the Department of Transportation amends 14 CFR Chapter II as follows:

PART 217—[AMENDED]

1. The authority for part 217 continues to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 413, 417.

2. In § 217.5, paragraphs (b)(12) and (b)(13) are added to read as follows:

§ 217.5 Data collected (data elements).

* * * * *

(b) * * *

(12) *Available capacity-payload (Code 270).* The available capacity is collected in kilograms. This figure shall reflect the available load (see load, available in 14 CFR part 241 Section 03) or total available capacity for passengers, mail and freight applicable to the aircraft with which each flight stage is performed.

(13) *Available seats (Code 310).* The number of seats available for sale. This figure reflects the actual number of seats available, excluding those blocked for safety or operational reasons. Report the total available seats in item 310.

PART 241—[AMENDED]

1. The authority for part 241 continues to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 411, 417.

2. In Sec. 19–5 paragraphs (c) (7), (8), and (18) are revised to read as follows:

* * * * *

Section 19 * * *

Sec. 19–5 Air Transport Traffic and Capacity Elements

* * * * *

(c) * * *

(7) *110 Revenue passengers enplaned.* The total number of revenue passengers enplaned at the origin point of a flight, boarding the flight for the first time; an unduplicated count of passengers in a market. Under the T–100 system of reporting, these enplaned passengers are the sum of the passengers in the individual on-flight markets. Report only the total revenue passengers enplaned in item 110. For all air carriers and all entities, item 110 revenue passengers enplaned is reported on Form 41 Schedule T–100 in column C–1, as follows:

	Col.	All carrier groups and entities
C–1	110	Revenue passengers enplaned.

(8) *130 Revenue passengers transported.* The total number of revenue passengers transported over single flight stage, including those already on board the aircraft from a previous flight stage. Report only the total revenue passengers transported in item 130. For all air carriers and all entities, item 130 revenue passengers transported is reported on Form 41 Schedule T–100 in Column B–7, as follows:

	Col.	All carrier groups and entities
B–7	130	Revenue passengers transported.

* * * * *

(18) *310 Available seats.* The number of seats available for sale. This figure reflects the actual number of seats available, excluding those blocked for safety or operational reasons. Report the total available seats in item 310. For all air carriers and all entities, item 310 available seats, total is reported on Form 41 Schedule T–100 in column B–4, as follows.

	Col.	All carrier groups and entities
B–4	310	Available seats, total.

* * * * *

3. In Section 19–6 paragraph (b) introductory text is revised to read as follows:

Section 19–6 Public Disclosure of Traffic Data

* * * * *

(b) Detailed international on-flight market and nonstop segment data in Schedule T–100 and Schedule T–100(f) reports shall be publicly available immediately following the Department's determination that the database is complete, but no earlier than six months after the date of the data. Data for on-flight markets and nonstop segments involving no U.S. points shall not be made publicly available for three years. Industry and carrier summary data may be made public before the end of six months or the end of three years, as applicable, provided there are three or more carriers in the summary data disclosed. The Department may, at any time, publish international summary statistics without carrier detail. Further, the Department may release nonstop segment and on-flight market detail data by carrier before the end of the confidentiality periods as follows:

* * * * *

Issued in Washington, DC on February 6, 1997.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 97–3576 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–62–P

14 CFR Part 383

49 CFR Part 31

[OST Docket No. OST–97–2116]

RIN 2105–AC63

Program Fraud Civil Remedies; Civil Penalties

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: In accordance with Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, this final rule incorporates the penalty inflation adjustments for civil money penalties imposed by the Office of the Secretary of Transportation.

EFFECTIVE DATE: This rule is effective on March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Mark A. Holmstrup, Senior Trial Attorney, Office of Aviation Enforcement and Proceedings (C–70), Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–9349.

SUPPLEMENTARY INFORMATION:

I. The Debt Collection Improvement Act of 1996

In an effort to maintain the remedial impact of civil money penalties (CMPs) and promote compliance with the law, the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410) was amended by the Debt Collection Improvement Act of 1996 (Pub.L. 104–134, section 31001) to require Federal agencies to regularly adjust certain CMPs for inflation. As amended, the law requires each agency to make an initial inflationary adjustment for all applicable CMPs, and to make further adjustments at least once every four years thereafter for these penalty amounts.

The Debt Collection Improvement Act of 1996 further stipulates that (i) any resulting increases in a CMP due to the calculated inflation adjustments should apply only to the violations that occur after October 23, 1996—180 days after the date of enactment of the statute—and (ii) the initial adjustment of a CMP under the Act may not exceed 10 percent of that CMP. Penalties that fall under the Internal Revenue Code of 1986, the Tariff Act of 1930, the Occupational Safety and Health Act of 1970, and the Social Security Act are specifically exempt from the requirements of the Act.

Method of Calculation

Under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, the inflation adjustment for each applicable CMP is determined by increasing the maximum CMP amount per violation by the cost-of-living adjustment. The ''cost-of-living'' adjustment is defined as the percentage of each CMP by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the calendar year in which the amount of the CMP (if any) was last set or adjusted in accordance with the law. Any calculated increase under this adjustment is subject to a specific rounding formula set forth in the 1990 statute.

II. OST Civil Money Penalties Affected by This Adjustment

There are two penalty authorities under our jurisdiction, as described below, for which adjustments are required and are now being made.

Title 49 of the United States Code (Transportation)

Section 46301(a)(1) of Title 49 (formerly section 1471(a) of the Federal Aviation Act, 49 U.S.C. App. § 901(a)) sets forth a CMP of not more than $1,000 for persons who violate certain provisions of Title 49, Subtitle VII (Aviation Programs). The penalty was enacted in 1962 and has not been increased with respect to matters within the jurisdiction of the Office of the Secretary.

Based on the penalty amount inflation factor calculation, derived from dividing the June 1995 CPI by the CPI from June 1962, after rounding and applying the 10 percent maximum ceiling, we are adjusting the maximum penalty amount for the CMP under Section 46301(a)(1) to $1,100 per violation.

The Program Fraud Civil Remedies Act of 1986

In 1986, sections 6103 and 6104 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–501) set forth the Program Fraud Civil Remedies Act of 1986 (PFCRA). Specifically, this authority established a CMP and an

assessment against any individual who-with knowledge or reason to know-makes, presents or submits a false, fictitious or fraudulent claim or statement to the Department. The Department's regulations—published in the Federal Register (53 FR 880, January 14, 1988) and codified at 49 CFR Part 31—set forth a CMP of up to $5,000 for each false claim or statement made to the Department.

Based on the penalty amount inflation factor calculation, derived from dividing the June 1995 CPI by the CPI from June 1986, after rounding and applying the 10 percent maximum ceiling, we are adjusting the maximum penalty amount for this CMP to $5,500 per violation.

III. Waiver of Proposed Rulemaking

In developing this final rule, we are waiving the usual notice of proposed rulemaking and public comment procedures set forth in the Administrative Procedure Act (APA) (5 U.S.C. § 553). The APA provides an exception to the notice and comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary or contrary to the public interest. We have determined that under 5 U.S.C. § 553(b)(3)(B) good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule. Specifically, this rulemaking comports and is consistent with the statutory authority set forth in the Debt Collection Improvement Act of 1996, with no issues of policy discretion. Accordingly, we believe that opportunity for prior comment is unnecessary and contrary to the public interest, and are issuing these revised regulations as a final rule that will apply to all future cases under this authority.

IV. Regulatory Impact Statement

Executive Order 12866

This final rule is exempt from review by the Office of Management and Budget (OMB) in accordance with the provisions of Executive Order 12866, because it is limited to the adoption of statutory language, without interpretation. As indicated above, the provisions contained in this final rulemaking set forth the inflation adjustments in compliance with the Debt Collection Improvement Act of 1996 for specific applicable civil money penalties under the authority of the OST. The great majority of persons addressed through these regulations do not engage in such prohibited activities and practices, and as a result, we believe that any aggregate economic impact of these revised regulations will be minimal, affecting only those limited few who may engage in prohibited behavior in violation of the statutes or regulations. As such, this final rule and the inflation adjustment contained therein should have no effect on Federal or State expenditures.

Regulatory Flexibility Act

In addition, we prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (5 U.S.C. 601–612), unless we certify that a regulation will not have a significant economic impact on a substantial number of small entities. While some penalties may have an impact on small entities, it is the nature of the violation and not the size of the entity that will result in an action by the OST, and the aggregate economic impact of this rulemaking on small business entities should be minimal, affecting only those few who have chosen to engage in prohibited arrangements and schemes in violation of statutory and regulatory intent.

Therefore, we have concluded and certify that this final rule will not have a significant economic impact on a substantial number of small entities, and that a regulatory flexibility analysis is not required for this rulemaking.

Paperwork Reduction Act

This final rule imposes no new reporting or record keeping requirements necessitating clearance by OMB.

List of Subjects

14 CFR Part 383

Administrative practice and procedure, Penalties.

49 CFR Part 31

Administrative practice and procedure, Fraud, Investigations, Organizations and functions, (Governmental agencies), Penalties.

Accordingly, the Department of Transportation adds a Part 383 to Title 14, Subchapter D, of the Code of Federal Regulations and amends 49 CFR Part 31, as set forth below:

TITLE 14—AERONAUTICS AND SPACE

CHAPTER II—OFFICE OF THE SECRETARY, DEPARTMENT OF TRANSPORTATION (AVIATION PROCEEDINGS)

A new 14 CFR Part 383 is added to subchapter D to read as follows:

PART 383—CIVIL PENALTIES

Sec.
383.1 Basis and purpose.
383.2 Amount of penalty.

Authority: 28 U.S.C. section 2461 note.

§ 383.1 Basis and purpose.

(a) Basis. This part implements the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, section 31001). The Debt Collection Improvement Act of 1996 (Act) requires each agency head to adjust by regulation each civil monetary penalty provided by law by the inflation adjustment described under section 5 of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

(b) Purpose. This part increases the civil penalty liability amount listed under subsection (a)(1) of section 46301 of Title 49 of the United States Code.

§ 383.2 Amount of penalty.

A person is liable to the United States Government for a civil penalty of not more than $1,100 for violations covered by this chapter and listed under subsection (a)(1) of section 46301 of Title 49 of the United States Code.[1]

TITLE 49—TRANSPORTATION

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

49 CFR Part 31 is amended as set forth below:

PART 31—PROGRAM FRAUD CIVIL REMEDIES

1. The authority citation for part 31 continues to read as follows:

Authority: 31 U.S.C. 3801–3812.

2. Section 31.3 is amended by revising paragraphs (a)(1) introductory text, (a)(1)(w), (b)(1) introductory text and and (b)(1)(ii) to read as follows:

§ 31.3 Basis for civil penalties and assessments.

(a) Claims. (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know—

* * *

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,500 for each such claim.[1]

[1] As adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–140), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–143, section 31001).

* * * * *

(b) Statements. (1) Except as provided in paragraph (c) of this section, any person who makes a written statement that—* * *

(ii) Contains, or is accompanied by, an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,500.[2]

* * * * *

Issued this 3rd day of February, 1997, at Washington, D.C.

Federico Peña,

Secretary of Transportation.

[FR Doc. 97–3238 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T. D. 97–7]

Establishment of Port of Entry at Spirit of St. Louis Airport

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations pertaining to the field organization of Customs by designating a port of entry at the Spirit of St. Louis Airport in St. Louis County, Missouri. This designation is pursuant to Congressional direction in Public Law 104–208.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Harry Denning, Office of Field Operations, (202) 927–0196.

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and to the general public, Customs is amending § 101.3, Customs Regulations (19 CFR 101.3), by designating a port of entry at the Spirit of St. Louis Airport in St. Louis County, Missouri. This designation is pursuant to Congressional direction in Public Law 104–208 of September 30, 1996.

[2] As adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–140), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–143, section 31001).

Port Limits

The port limits of the Spirit of St. Louis Airport encompass the following territory:

A tract of land in the City of Chesterfield, St. Louis County, Missouri, described as follows: The point of beginning located at the intersection of the Missouri River Interstate 64/U.S. Highway 40/61 Bridge and the Monarch-Chesterfield Levee; thence eastwardly along said Levee to Bonhomme Creek; thence southwestwardly along said Levee across its eastern intersection with Interstate 64 and its intersection with Chesterfield Airport Road to its connection with the St. Louis Southwestern Railroad rail bed just east of Long Road; thence westwardly along said Railroad right-of-way to its intersection with Eatherton Road; thence northwardly along Eatherton Road to a point where it intersects with Olive Street Road and the Levee; thence northeastwardly along said Levee to the point of beginning.

Regulatory Flexibility Act and Executive Order 12866

Because this document relates to agency management and organization and because this amendment is directed by Congress, this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553. Accordingly this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This document does not meet the criteria for a significant regulatory action under Executive Order 12866.

Inapplicability of Public Notice and Comment Requirements

Inasmuch as this amendment is the direct result of Congressional direction, pursuant to 5 U.S.C. 553(a)(2) and (b)(B), good cause exists for dispensing with the notice and public procedure thereon as unnecessary.

Drafting Information

The principal author of this document was Janet Johnson, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Organization and functions (Government agencies).

Amendments to the Regulations

For the reasons set forth in the preamble, part 101 of the Customs Regulations is amended as set forth below.

PART 101—GENERAL PROVISIONS

1. The general authority citation for Part 101 and the specific authority for § 101.3 continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1623, 1624. Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

* * * * *

§ 101.3 [Amended]

2. Section 101.3(b)(1) is amended by adding, in alphabetical order under the state of Missouri, ''Spirit of St. Louis Airport'' in the ''Ports of entry'' column and, adjacent to this entry, ''Including territory described in T. D. 97–7'' in the ''Limits of port'' column.

Approved: January 17, 1997.

George J. Weise,

Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 97–3619 Filed 2–12–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 89F–0331]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2,3,4,5-tetrachloro-6-cyanobenzoic acid, methyl ester reaction products with *p*-phenylenediamine and sodium methoxide as a colorant in all food-contact polymers. This action is in response to a petition filed by Ciba-Geigy Corp.

DATES: Effective February 13, 1997; written objections and requests for a hearing by March 17, 1997.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food

Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3094.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of August 29, 1989 (54 FR 35725), FDA announced that a food additive petition (FAP 9B4158) had been filed by Ciba-Geigy Corp., Seven Skyline Dr., Hawthorne, NY 10532–2188 (currently c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001). The petition proposed to amend § 178.3297 *Colorants for polymers* (21 CFR 178.3297) to provide for the safe use of 2,3,4,5-tetrachloro-6-cyanobenzoic acid, methyl ester reaction products with *p*-phenylenediamine and sodium methoxide as a colorant in all food-contact polymers.

In its evaluation of the safety of this food additive, FDA reviewed the safety of the additive and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it has been found to contain minute amounts of polychlorinated biphenyls (PCB's), which are carcinogenic impurities resulting from manufacture of the additive. Residual amounts of reactants, manufacturing aids and their constituent impurities and by-products, such as PCB's, are commonly found as contaminants in chemical products, including food additives.

I. Determination of Safety

Under the so-called ''general safety clause,'' of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as ''a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use.''

The food additives anticancer, or Delaney, clause of the act (21 U.S.C. 348(c)(3)(A)) provides that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the food additive itself and not to the impurities in the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety clause using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the food additive, *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984).

II. Safety of Petitioned Use of the Additive

FDA estimates that the petitioned use of the food additive, 2,3,4,5-tetrachloro-6-cyanobenzoic acid, methyl ester reaction products with *p*-phenylenediamine and sodium methoxide, will result in exposure to no greater than 1.3 parts per billion (ppb) of the additive in the daily diet (3 kilograms (kg)), or an estimated dietary intake (EDI) of 3.9 micrograms per person per day (μg/person/day) (Ref. 1).

FDA does not ordinarily consider chronic toxicological studies to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Ref. 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data (acute toxicity and mutagenicity studies) on the additive and concludes that the small dietary exposure resulting from the proposed use of the additive is safe.

FDA has evaluated the safety of this additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper-bound limit of lifetime human risk presented by PCB's, carcinogenic chemicals that may be present as impurities in the additive. This risk evaluation of PCB's has two aspects: (1) Assessment of the worst-case exposure to these impurities from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassays to the conditions of worst-case exposure to humans.

A. PCB's

FDA has estimated the hypothetical worst-case exposure to PCB's from the petitioned use of the food additive as a colorant in polymers to be less than 0.32 parts per quadrillion of the daily diet (3 kg), or 0.96 picogram per person per day (pg/person/day) (Ref. 3). The agency used data from a carcinogenesis bioassay on PCB's, conducted by Norback and Weltman (Ref. 4), to estimate the upper-bound limit of lifetime human risk from exposure to these chemicals resulting from the proposed use of the food additive (Ref. 5). The results of the bioassay on a PCB mixture (Aroclor 1260) demonstrated that the material was carcinogenic for male and female rats under the conditions of the study. The test material caused significantly increased incidence of hepatocellular tumors in both female and male rats.

Based on the estimated worst-case exposure to PCB's of 0.96 pg/person/day, FDA estimates that the upper-bound limit of lifetime human risk from the use of the subject additive is less than 9×10^{-12} or 9 in 1 trillion (Refs. 6 and 7). Because of the numerous conservative assumptions used are in calculating the exposure estimate, the actual lifetime-averaged individual exposure to PCB's is likely to be substantially less than the potential worst-case exposure, and therefore, the upper-bound limit of lifetime human risk would be less. Thus, the agency concludes that there is a reasonable certainty that no harm from exposure to PCB's would result from the proposed use of the additive.

B. Need for Specifications

The agency has also considered whether specifications are necessary to control the amount of PCB's present as impurities in the additive. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low levels at which PCB's may be expected to remain as impurities following production of the additive, the agency would not expect these impurities to become components of food at other than extremely low levels; and (2) the upper-bound limit of lifetime human risk from exposure to these impurities, even under worst-case assumptions, is very low, less than 9 in 1 trillion.

III. Conclusion on Safety

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the food additive as a colorant in polymers in contact with food is safe, that the food additive will achieve its intended technical effect and that the regulations in § 178.3297 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

V. Objections

Any person who will be adversely affected by this regulation may at any time on or before March 17, 1997, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum dated November 1, 1989, from the Food and Color Additives Review Section (HFF–415) to Indirect Additives Branch (HFF–335) concerning ''FAP 9B4158—Ciba-Geigy Corp. Submission dated 7–7–89. Irgazin Yellow 3RLTN as a colorant in polymeric food packaging.''

2. Kokoski, C. J., ''Regulatory Food Additive Toxicology,'' in *Chemical Safety Regulation and Compliance,* edited by F. Homburger and J. K. Marquis, S. Karger, New York, NY, pp. 24–33, 1985.

3. Memorandum dated May 23, 1995, from the Chemistry Review Branch (HFS–247) to Indirect Additives Branch (HFS–216).

4. Norback, D. H., and R. H. Weltman., ''Polychlorinated Biphenyl Induction of Hepatocellular Carcinoma in the Sprague-Dawley Rat,'' *Environmental Health Perspectives,* 60:97–105, 1985.

5. Gaylor, D. W., and R. L. Kodell., ''Linear Interpolation Algorithm for Low Dose Risk Assessment of Toxic Substances,'' *Journal of Environmental Pathology and Toxicology,* 4:305–312, 1980.

6. Memorandum, Report of the Quantitative Risk Assessment Committee, August 18, 1995.

7. Memorandum dated October 11, 1996, from the Quantitative Risk Assessment Committee (HFS–16) to Indirect Additives Branch (HFS–216) concerning ''Clarification of QRAC Memorandum of August 18, 1995, re FAPs 9B4158 and 3B4349.''

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.3297 is amended in the table in paragraph (e) by alphabetically adding a new entry under the headings ''Substances'' and ''Limitations'' to read as follows:

§ 178.3297 Colorants for polymers.

* * * * *

(e) * * *

Substances	Limitations
* * *	* * * *
2,3,4,5-Tetrachloro-6-cyanobenzoic acid, methyl ester reaction products with *p*-phenylenediamine and sodium methoxide (CAS Reg. No. 106276–80–6)	For use only at levels not to exceed 1 percent by weight of polymers. The finished articles are to contact food only under conditions of use B through H, described in Table 2, of § 176.170(c) of this chapter.
* * *	* * * *

Dated: February 5, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–3661 Filed 2–12–97; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Parts 510 and 520

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) from Biocraft Laboratories, Inc., to Teva Pharmaceuticals USA.

EFFECTIVE DATE: February 13, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Biocraft Laboratories, Inc., 92 Route 46, Elmwood Park, NJ 07407, has informed FDA that it has transferred ownership of, and all rights and interests in NADA 131–806 for furosemide tablets or boluses to Teva Pharmaceuticals USA, 650 Cathill Rd., Sellersville, PA 18960. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) by alphabetically adding a new listing for Teva Pharmaceuticals USA. The agency is also amending 21 CFR 520.1010a to reflect the transfer of ownership.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for ''Teva Pharmaceuticals USA'' and in the table in paragraph (c)(2) by numerically adding a new entry for ''000093'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * *	* * * *
Teva Pharmaceuticals USA, 650 Cathill Rd., Sellersville, PA 18960	000093
* * *	* * * *

(2) * * *

Drug labeler code	Firm name and address
* * *	* * * *
000093	Teva Pharmaceuticals USA, 650 Cathill Rd., Sellersville, PA 18960
* * *	* * * *

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.1010a [Amended]

4. Section 520.1010a *Furosemide tablets or boluses* is amended in paragraph (b) by removing the number ''000332'' and adding in its place ''000093''.

Dated: February 4, 1997.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 97–3662 Filed 2–12–97; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–155–1–7178; TN–MEM–149–3–9701; FRL–5669–3]

Approval and Promulgation of Implementation Plans; State of Tennessee and Memphis-Shelby County, Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Tennessee State Implementation Plan (SIP) to allow the State to issue Federally enforceable state operating permits (FESOP). EPA is also approving revisions to the Memphis-Shelby County portion of the Tennessee SIP to allow the County to issue Federally enforceable local operating permits (FELOP). EPA is also approving the State's FESOP program and the County's FELOP program pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA or ''the Act'') so that both permitting agencies may issue Federally enforceable state operating permits containing limits for hazardous air pollutants (HAP).

DATES: This final rule is effective April 14, 1997 unless adverse or critical comments are received by March 17, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to Gracy R. Danois at the EPA Regional Office listed below. Copies of the documents used in developing this action are available for public inspection during normal business hours at the locations listed below. Interested persons wanting to examine these documents, contained in files TN155 and TN149–3, should make an appointment with the appropriate office at least 24 hours before the visiting day:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

U.S. Environmental Protection Agency, Region 4, Air and Radiation Technology Branch, Atlanta Federal

Center, 100 Alabama Street, SW, Atlanta, Georgia 30303.

Tennessee Department of Environment and Conservation, L & C Annex, 401 Church Street, Nashville, Tennessee, 37243–1531.

Memphis-Shelby County Health Department, 814 Jefferson Avenue, Room 437–E, Memphis, Tennessee, 38105.

FOR FURTHER INFORMATION CONTACT: Gracy R. Danois, Air and Radiation Technology Branch, Air, Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 100 Alabama Street, SW, Atlanta, Georgia 30303, 404/562–9119. Reference files TN155 and TN149–3.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

On January 10, 1995, and May 3, 1995, Memphis-Shelby County and the State of Tennessee, respectively, through the Tennessee Department of Environment and Conservation (TDEC), submitted SIP revisions to make certain permits issued under the County's and the State's existing minor source operating permit program Federally enforceable pursuant to the EPA requirements specified in the Federal Register notice entitled ''Requirements for the Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans'' (see 54 FR 27274, June 28, 1989). Additional materials concerning HAPs and the implementation of the FESOP and FELOP programs were provided by the State and the County to EPA on March 8, 1996, and June 12, 1996, and March 13, 1996, and September 4, 1996, respectively.

EPA has always had and continues to have the authority to enforce state permits which are issued under permit programs approved into the SIP. However, EPA has not always recognized, as valid, certain state permits which purport to limit a source's potential to emit. The principle purpose for adopting the regulations that are the subject of this notice is to give the State of Tennessee and Memphis-Shelby County a Federally recognized means of expeditiously restricting potential emissions such that sources can avoid major source permitting requirements. A key mechanism for such limitations is the use of Federally enforceable state or local operating permits. The term ''Federally enforceable,'' when used in the context of permits which limit potential to emit, means ''Federally recognized.''

The voluntary revision that is the subject of this action approves Division Rule 1200–3–9–.02(11)(a) into both the State and the County portions of the Tennessee SIP. This rule and the additional materials provided by the State and the County satisfy the five criteria outlined in the June 28, 1989, Federal Register notice. Please refer to section II of this notice for the analysis of each of the criteria.

II. Analysis of State and County Submittals

Memphis-Shelby County has adopted the majority of the State of Tennessee's Division Rules in the Memphis City Code. The County maintains the numbering system used by the State of Tennessee within its regulations. Therefore, all references to the State of Tennessee's Division Rules are also applicable to Memphis-Shelby County, unless otherwise noted.

Criterion 1. The state's operating permit program (i.e. the regulations or other administrative framework describing how such permits are issued) must be submitted to and approved by EPA as a SIP revision. On January 10, 1995, and May 3, 1995, respectively, Tennessee and Memphis-Shelby County submitted SIP revision requests to EPA consisting of Division Rule 1200–3–9–.02(11)(a), amending the stationary source general requirements. Additional materials concerning hazardous air pollutants and the operating permit program were submitted to EPA by Memphis-Shelby County and Tennessee on March 8, 1996, and June 12, 1996, and on March 13, 1996, and September 4, 1996, respectively. These submittals are the subject of this rulemaking action.

Criterion 2. The SIP revision must impose a legal obligation that operating permit holders adhere to the terms and limitations of such permits (or subsequent revisions of the permit made in accordance with the approved operating permit program) and provide that permits which do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not ''Federally enforceable'' by EPA. Division Rule 1200–3–9–.02(6) requires each air contaminant source to obtain a permit to operate and to operate in accordance with ''the provisions and stipulations set forth in the operating permit, all provisions of these regulations, and all provisions of the Tennessee Air Quality Act.'' In addition, Tennessee has committed to include the following statement in all operating permits issued pursuant to Division Rule 1200–3–9–.02(11): ''The permittee is placed on notice that Condition(s) _____ of this operating permit contain(s) limitations that allow the permittee to opt-out of the major source operating permit program requirements specified in Division Rule 1200–3–9–.02(11). Failure to abide by these limits will not only subject the permittee to enforcement action by the State of Tennessee, but it may also result in the imposition of Federal enforcement action by the United States Environmental Protection Agency and the loss of being Federally recognized as a conditional major source.'' Memphis-Shelby County has committed to incorporate similar language in the operating permits it issues pursuant to the same Division Rule.

Criterion 3. The state operating permit program must require that all emission limitations, controls, and other requirements imposed by such permits will be at least as stringent as any applicable limitations and requirements contained in the SIP, or enforceable under the SIP, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise ''Federally enforceable'' (e.g. standards established under sections 111 and 112 of the Clean Air Act). Division Rule 1200–3–9–.02(6) contains regulatory provisions which state that operating permits issued by Tennessee and Memphis-Shelby County will be at least as stringent as any applicable requirement. Applicable requirement is defined in Division Rule 1200–3–9–.02(11)(b)(5) to include all SIP requirements.

Criterion 4. The limitations, controls and requirements of the state's operating permits must be permanent, quantifiable, and otherwise enforceable as a practical matter. Division Rules 1200–3–9–.02(6) and 1200–3–9–.02(11)(a) contain regulatory provisions which satisfy this criterion. Permits must contain a statement of basis comparing the source's potential to emit with the more restrictive limit and the procedures to be followed that will insure that the more restrictive limit is not exceeded. Concerning permanence, Division Rule 1200–3–9–.02(11)(a), establishes that in order to obtain a synthetic non-title V permit, the facility must agree to be bound by a permit that establishes more restrictive limitations. Also, the State relies on the requirements of Division Rule 1200–3–13–.01 as their authority to seek enforcement action against a source that violates the conditions of an operating permit. Memphis-Shelby County relies

on the requirements of sections 16–56, 16–59, and 16–77 of the Memphis City Code to meet this criterion. Section 16–56, gives the County the authority to seek enforcement action against sources that violate any of the requirements of the local air pollution code, which includes a failure to meet all permit conditions as required by Section 16–77.

Criterion 5. The state operating permits must be issued subject to public participation. This means that the State and the County agree, as part of their programs, to provide EPA and the public with timely notice of the proposal and issuance of such permits, and to provide EPA, on a timely basis, with a copy of each proposed (or draft) and final permit intended to be ''Federally enforceable.'' This process must also provide for an opportunity for public comment on the permit applications prior to issuance of the final permits. Division Rules 1200–3–9–.02(11)(a), 1200–3–9–.02(11)(f)8. and 1200–3–9–.02(11)(g) contain provisions establishing that the State and the County will either deny the request for a permit or give EPA and the public notice of an intention to issue the permit and provide for a 30 day public comment period.

A. Applicability to Hazardous Air Pollutants

Tennessee and Memphis-Shelby County have also requested approval of their FESOP and FELOP programs under section 112(l) of the Clean Air Act for the purpose of creating Federally recognized limitations on the potential to emit for HAPs. Approval under section 112(l) is necessary because the SIP revisions discussed above only extend to criteria pollutants for which EPA has established national ambient air quality standards under section 109 of the Act. Federally enforceable limits on criteria pollutants or their precursors (i.e. VOCs or PM–10) may have the incidental effect of limiting certain HAPs listed pursuant to section 112(b).[1] As a legal matter, no additional program approval by the EPA is required beyond SIP approval under section 110 in order for these criteria pollutant limits to be recognized as Federally enforceable. However, section 112 of the Act provides the underlying authority for controlling all HAP emissions, regardless of their relationship to criteria pollutant controls.

[1] 1 EPA issued guidance on January 25, 1995, addressing the technical aspects of how these criteria pollutant limits may be recognized for purposes of limiting a source's potential to emit of HAPs to below section 112 major source thresholds.

EPA has determined that the five criteria, published in the June 28, 1989, Federal Register notice, used to determine the validity of a permit which limits potential to emit for criteria pollutants pursuant to section 110 are also appropriate for evaluating the validity of permits which limit the potential to emit for HAPs pursuant to section 112(l). The June 28, 1989, Federal Register notice does not address HAPs because it was written prior to the 1990 amendments to the Clean Air Act; however, the basic principles established in the June 28, 1989, Federal Register notice are not unique to criteria pollutants. Therefore, these criteria have been extended to evaluations of permits limiting the potential to emit of HAPs.

To be recognized by EPA as a valid permit which limits potential to emit, the permit must not only meet the criteria in the June 28, 1989, Federal Register notice, but it must meet the statutory criteria for approval under section 112(l)(5). Section 112(l) provides that EPA will recognize a permit limiting the potential to emit for HAPs only if the state program: (1) Contains adequate authority to assure compliance with any section 112 standard or requirement; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the Act.

EPA plans to codify in Subpart E of Part 63 the approval criteria for programs limiting potential to emit HAPs. EPA anticipates that these criteria will mirror those set forth in the June 28, 1989, Federal Register notice. Permit programs which limit potential to emit for HAPs and are approved pursuant to section 112(l) of the Act prior to the planned regulatory revisions under 40 CFR part 63, subpart E, will be recognized by EPA as meeting the criteria in the June 28, 1989, Federal Register notice. Therefore, further approval actions for those programs will not be necessary.

EPA believes it has authority under section 112(l) to recognize FESOP and FELOP programs that limit a source's potential to emit HAPs directly under section 112(l) prior to this revision to Subpart E. EPA is therefore approving the Tennessee and Memphis-Shelby County FESOP and FELOP programs so that Tennessee and Memphis-Shelby County may issue permits that EPA will recognize as validly limiting potential to emit for HAPs.

Regarding the statutory criteria of section 112(l)(5) referred to above, EPA believes the FESOP and FELOP programs submitted by Tennessee and Memphis-Shelby County contain adequate authority to assure compliance with section 112 requirements since the third criterion of the June 28, 1989, notice is met; that is, Division Rule 1200–3–9–.02(11)(b)(5) states that all requirements in the permits issued under the authority of the operating permit programs must be at least as stringent as all other applicable Federally enforceable requirements. In connection with EPA's review of the Tennessee and Memphis-Shelby County title V operating permit programs, EPA has also conducted an extensive analysis of Tennessee and Memphis-Shelby County's underlying authority to enforce HAP limits. It should be noted that a source that receives a Federally recognized operating permit may still need a Title V operating permit under Division Rule 1200–3–9–.02 if EPA promulgates a MACT standard which requires non-major sources to obtain Title V permits.

Regarding the requirement for adequate resources, Tennessee and Memphis-Shelby County have committed to provide for adequate resources to support their respective FESOP and FELOP programs. EPA expects that resources will continue to be sufficient to administer those portions of the minor source operating permit programs under which the subject permits will be issued, because both the State of Tennessee and Memphis-Shelby County have administered minor source operating permit programs for a number of years. However, EPA will monitor the implementation of the FESOP and FELOP programs to ensure that adequate resources are in fact available.

EPA also believes that the Tennessee and Memphis-Shelby County programs provide for an expeditious schedule which assures compliance with section 112 requirements. These programs will be used to allow a source to establish a voluntary limit on potential to emit to avoid being subject to a CAA requirement applicable on a particular date. Nothing in the Tennessee or Memphis-Shelby County programs would allow a source to avoid or delay compliance with a CAA requirement applicable on a particular date. In addition, nothing in the Tennessee or Memphis-Shelby County program would allow a source to avoid or delay compliance with a CAA requirement if it fails to obtain an appropriate Federally recognized limit by the relevant deadline. Finally, EPA believes it is consistent with the intent of section 112 of the Act for States to provide a mechanism through which a source may

avoid classification as a major source by obtaining a Federally recognized limit on its potential to emit HAPs. EPA has long recognized as valid, permit programs which limit potential to emit for criteria pollutants as a means for avoiding major source requirements under the Act. The portion of this approval which extends Federal recognition to permits containing limits on potential to emit for HAPs merely applies the same principles to another set of pollutants and regulatory requirements under the Act.

EPA has reviewed this SIP revision and determined that the criteria for approval as provided in the June 28, 1989, Federal Register notice (54 FR 27282) and in section 112(l)(5) of the Act have been satisfied.

B. Eligibility for Previously Issued Permits

Eligibility for Federally enforceable permits extends not only to permits issued after the effective date of this rule, but also to permits issued under the State's and the County's existing rules prior to the effective date of today's rulemaking. If the State and County followed their own regulations, then each agency issued a permit that established a Federally recognized permit condition that was subject to public and EPA review. Therefore, EPA will consider all such operating permits Federally enforceable upon the effective date of this action provided that any permits that the State wishes to make Federally enforceable are made available to EPA and are supported by documentation that the procedures approved today have been followed. EPA may review any such permits to ensure their conformity with the program requirements.

III. Final Action

In this action, EPA is approving Tennessee's FESOP program and Memphis-Shelby County's FELOP program. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will be effective April 14, 1997 unless, by March 17, 1997, adverse or critical comments are received. If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule.

EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 14, 1997.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989, (54 FR 2214–2225), as revised by the July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision of any SIP. Each request for revision of the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Clean Air Act as Amended in 1990

EPA has reviewed the requests for revision of the Federally-approved Tennessee SIP described in this notice to ensure conformance with the provisions of the Clean Air Act as amended in 1990. EPA has determined that this action conforms with those requirements.

B. Petition for Review

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 14, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607 (b)(2).)

C. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because approval of Federal SIP does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(R).

E. Unfunded Mandates Reform Act of 1995

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State has elected to adopt the program provided for under section 112(l) of the Clean Air Act. These rules may bind the State government to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action would impose no new requirements, such sources are already subject to these regulations under State law. Accordingly, no additional costs to the State government, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to the State government in the aggregate or to the private sector.

F. Small Business Regulatory Enforcement Fairness Act of 1996

Under 5 U.S.C. 801(a)(1)(A) added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Lead, Nitrogen dioxide, Intergovernmental relations, Particulate matter, Ozone, Sulfur oxides.

Dated: December 16, 1996.

A. Stanley Meiburg,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(145) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(145) Revisions to Division Rule 1200—Stationary Sources—General Requirements, submitted by the Tennessee Department of Environmental Protection on May 3, 1995.

(i) Incorporation by reference.

(A) Division of Air Pollution Control Rule 1200–3–9–.02(11)(a), effective September 21, 1994.

(B) Memphis City Code Section 16–77, reference 1200–3–9–.02(11)(a), effective October 28, 1994.

(ii) Other materials. None.

[FR Doc. 97–3577 Filed 2–12–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 58

[FRL–5683–4]

Modification of the Ozone Monitoring Season; Alabama, Georgia, and Mississippi

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Previously, the ozone monitoring season in Region 4 was twelve months in Florida; March—November in Georgia, Alabama, and Mississippi; and April—October in North Carolina, South Carolina, Tennessee, and Kentucky. Based on review of ozone monitoring data, Region 4 has determined that the appropriate ozone monitoring ozone season should be April 1–October 31 for all Region 4 states except Florida. Florida will continue to have a twelve month monitoring season.

EFFECTIVE DATE: March 17, 1997.

ADDRESSES: Copies of documents concerning this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

The Region 4 office may have additional background documents not available at the other locations.

Environmental Protection Agency, Region 4, Air Planning Branch, 100 Alabama Street, SW, Atlanta, Georgia 30303. Dick Schutt, (404) 562–9033.

Alabama Department of Environmental Management, 1751 Congressman W. L. Dickinson Drive, Montgomery, Alabama 36109. (334) 271–7861.

Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. (404) 363–7000.

Air Division, Office of Pollution Control, Mississippi Department of Environmental Quality, P.O. Box 10385, Jackson, Mississippi, 39289–0385. (601) 961–5171.

Bureau of Environmental Health, Jefferson County Department of Health, P.O. Box 2648, Birmingham, Alabama 35202. (205) 930–1225.

The City of Huntsville, Department of Natural Resources & Environmental Management, 305 Church Street, Huntsville, Alabama 35801. (205) 535–4206.

FOR FURTHER INFORMATION CONTACT: Dick Schutt at 404/562–9033.

SUPPLEMENTARY INFORMATION: 40 CFR 58.13(a)(3) provides that ambient air quality data must be collected except periods or seasons exempted by the Regional Administrator. EPA Region 4 has analyzed ozone monitoring data for all of the Region 4 states except Florida during the years 1991–1995. Air monitoring stations in the seven states recorded ozone values at or above .100 ppm on only three days between November 1–April 14. Based on this data, the EPA has determined that the appropriate ozone monitoring season should be April 1–October 31 for all Region 4 states except Florida. Florida will continue to have a twelve month monitoring season.

Therefore, pursuant to 40 CFR 58.13(a)(3), by letter dated September 5, 1996, from John H. Hankinson, EPA Region 4 Administrator, the EPA changed the Alabama, Georgia, and Mississippi ozone monitoring season to be April 1–October 31.

The ozone monitoring season for Region 4 states will be re-evaluated when the national ambient air quality standard for ozone is revised. The ozone monitoring season will be revised, if necessary at that time.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. EPA certifies that this rule will not have an impact on any number of small entities.

Under section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 14, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition

for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2).)

Under 5 U.S.C. 801(a)(1)(A) added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 58

Environmental protection, Air pollution control, Intergovernmental relations.

Dated: January 21, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

Part 58 of chapter 1, title 40 of the *Code of Federal Regulations* is amended as follows.

PART 58—[AMENDED]

1. The authority citation for part 58 is revised to read as follows:

Authority: 42 U.S.C. 7410, 7601(a), 7613, 7619.

Appendix D—[Amended]

2. In Appendix D, the table in section 2.5 is amended by revising the entries for Alabama, Georgia, and Mississippi to read as follows:

Appendix D—Network Design for State and Local Air Stations (SLAMS), National Air Monitoring Stations (NAMS), and Photochemical Assessment Monitoring Stations (PAMS).

* * * * *

2.5 * * *

OZONE MONITORING SEASON BY STATE

State	Begin month	End month
Alabama	Apr	Oct.
* * *	*	*
Georgia	Apr	Oct.
* * *	*	*
Mississippi	Apr	Oct.
* * *	*	*

[FR Doc. 97–3520 Filed 2–12–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AD69

Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds; Supplemental

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final Rule.

SUMMARY: The Fish and Wildlife Service (hereinafter Service) is supplementing the rule prescribing the late open season, hunting hours, hunting areas, and daily bag and possession limits for general waterfowl seasons in South Dakota that appeared in the Federal Register on September 27, 1996 (61 FR 50738).

DATE: Effective on February 13, 1997.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240, (703) 358–1714.

SUPPLEMENTARY INFORMATION: In the September 27, 1996, Federal Register (61 FR 50738), the Service published a final rule prescribing the late open season, hunting hours, hunting areas, and daily bag and possession limits for general waterfowl seasons and certain other migratory bird seasons in the conterminous United States. Public comment was received on the proposed rules for the seasons and limits contemplated herein. These comments were addressed in the Federal Registers dated August 29, 1996, (61 FR 45836) and September 26, 1996 (61 FR 50662). This supplement involves no change in substance in the contents of the prior proposed and final rules. In the case of South Dakota, the State has elected to select the remaining allowable hunt days permitted under the existing frameworks for snow geese.

Dated: February 3, 1997

George T. Frampton, Jr.

Assistant Secretary for Fish and Wildlife and Parks.

PART 20—[AMENDED]

For the reasons set out in the preamble, title 50, chapter I, subchapter B, Part 20, subpart K is amended as follows:

1. The authority citation for Part 20 continues to read as follows:

AUTHORITY: 16 U.S.C. 703–712; and 16 U.S.C. 742 a–j.

§ 20.105 [Amended]

2. In Section 20.105, paragraph (e) is amended by revising the Season Dates for South Dakota, subheading Light Geese, to read ''Sept. 28–Dec. 22 & Feb. 18–Mar. 10.'

[FR Doc. 97–3657 Filed 2–12–97; 8:45 am]

BILLING CODE 4310–55–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 222

[Docket No. 960730211–7020–02; I.D. 072296B]

RIN 0648–AJ03

North Atlantic Right Whale Protection

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

ACTION: Interim final rule.

SUMMARY: Disturbance is identified in the Final Recovery Plan for the Northern Right Whale (Recovery Plan) as among the principal human-induced factors impeding recovery of the northern right whale (*Eubalaena glacialis*) (NMFS, 1991). NMFS is issuing this interim final rule to restrict approaches within 500 yards (460 m) of a right whale, whether by vessel, aircraft or other means, in an attempt to reduce the current level of disturbance and the potential for vessel interaction and injury. This rule requires right whale avoidance measures if a vessel or aircraft is within the 500-yard (460 m) restricted area. Generally, vessels are required to immediately depart from the area at a slow, safe speed in a direction away from the whale. Exceptions are provided for emergency situations, where certain authorizations are provided for aircraft operations (unless the aircraft is conducting whale watch activities), for certain right whale disentanglement/rescue efforts and investigations, and for a vessel restricted in its ability to maneuver and unable to comply with the right whale avoidance measures.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Margot Bohan, NMFS/FPR, 301–713–2322; Doug Beach, NMFS/Northeast Regional Office, 508–281–9254; or

Kathy Wang, NMFS/Southeast Regional Office, 813–570–5312.

SUPPLEMENTARY INFORMATION:

Background

The northern right whale is recognized as the world's most endangered large whale species. Recent mortalities off the Atlantic coast of the United States have caused escalating concern for the western North Atlantic population, especially with regard to the population's vulnerability to human interaction.

The preamble to the proposed rule discussed the critically endangered status of the western North Atlantic population of the northern right whale (right whale), the distribution pattern of these whales near the east coast of the United States, and the existence of vessel and related human activities in these areas that pose a significant risk to right whales. In particular, where human activities coincide with the distribution of right whales off the coast of the United States, such as vessel traffic, there is the potential that right whales may be disturbed or have their behavior altered, conceivably being injured or killed as a result. (For a more complete discussion of these issues, see the preamble to the proposed rule (61 FR 41116, August 7, 1996) and the environmental assessment).

Since the proposed rule was issued, additional information has become available concerning the right whale population. Another right whale mortality was observed in early January 1997. A neonatal male calf was found stranded on Flagler Beach, FL; reports from a preliminary examination suggest that the whale may have died from birth trauma or other natural causes. Thus, since 1995, there have been 14, possibly 15, known serious injuries and/or mortalities of right whales off the Atlantic coast (5 due to entanglement, 3 due to ship strikes, 5 due to unknown or natural causes, and 1 death in 1996 due to ship strike of a whale injured by an entanglement in 1995). Furthermore, in early 1996, an increase in estimated mortalities was reported for the years 1994 and 1995. However, a preliminary analysis of right whale photo-identification data suggests that total right whale mortality cannot be estimated reliably because of a shift in photo-identification sighting efforts (Hain, et al., 1996 (in draft)). Significant uncertainties remain concerning the current population status and trends. Regardless of the uncertainties, the precarious state of the right whale population strongly suggests that human activity, which results in disturbance, and, thus, an increased potential for injury and mortality, may have a greater impact on population growth rates and trends relative to other whale species.

This rule is issued as an interim final rule to allow NMFS and state coastal management agencies to consider more fully whether this rule will affect approved Coastal Zone Management Programs in states along the east coast. NMFS determined that the proposed rule, if implemented would be consistent to the maximum extent practicable with federally-approved coastal zone management programs, pursuant to the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*, but through an oversight, the proposed rule was never sent to the responsible state agencies for review. NMFS has issued a similar determination with respect to this interim final rule and has requested the responsible state agencies to expedite their review.

In addition, other agencies have objected to the issuance of any regulatory definition for the ''territorial sea,'' as this term is used under the Endangered Species Act (ESA) and associated regulations. NMFS is not issuing such a definition in this interim final rule in order to have additional time to consult with other Federal agencies; this issue will be resolved prior to issuing a final rule.

The authority for the interim final regulation restricting approaches to right whales is pursuant to both the ESA and the Marine Mammal Protection Act (MMPA), as was proposed. NMFS has concluded that this regulation is an appropriate mechanism to carry out the purposes of the MMPA. Likewise, the rule is an appropriate mechanism to promote conservation, to implement recovery measures, and to enhance enforcement under the ESA. Section 11(f) of the ESA provides the Secretary of Commerce with broad rulemaking authority to enforce the provisions of the ESA. For example, given the potential that close approaches to right whales could harm, harass, injure or otherwise ''take'' a right whale, this interim final rule is issued to more fully implement the protections established under section 9(a) of the ESA. In addition, NMFS is required to develop and implement recovery plans under section 4(f) of the ESA and the Recovery Plan notes that disturbance and vessel interactions should be reduced. Lastly, all Federal agencies have an obligation under ESA section 7(a)(1) to use their authorities to further the purposes of the ESA to conserve species.

Changes From the Proposed Rule

On August 7, 1996, NMFS published a proposed rule to prohibit all approaches within 500 yards (460 m) of a right whale, whether by vessel, aircraft or other means. NMFS also proposed to restrict head-on approaches, to prohibit any vessel maneuver that would intercept a right whale, and to require right whale avoidance measures under specified circumstances. Exceptions were proposed for emergency situations and where certain authorizations were provided.

This interim final rule differs from the proposed rule in several important respects, and modifications were made for various reasons discussed below. First, NMFS endeavored to simplify and clarify the regulatory language of the rule. Second, changes were made to enhance the enforceability of the rule. Third, changes were made in response to comments received during the 90-day comment period for the proposed rule. Changes to the proposed rule include the following:

Definitions

The definition of ''right whale'' is added to the definitions section in 50 CFR part 217, instead of 50 CFR part 222. The substance and applicability of the definition is unchanged.

The interim final rule also adds a definition for ''vessel restricted in her ability to maneuver'' that refers to the definition in Rule 3 of the Inland Navigation Rules (33 U.S.C. 2003). A similar definition is used in the COLREGS Rule 3 (See 33 CFR Part 81 App. A, Part A, Rule 3).

Head-on Approaches

The proposed rule would have prohibited a vessel from approaching a right whale head-on from any distance once the right whale was observed or should have been observed by a vessel operator using due diligence and once there had been time to alter the heading of the vessel. The interim final rule does not include this prohibition. NMFS concluded that this prohibition would be very difficult to enforce and that the general restrictions on approaches within 500 yards (460 m) of a right whale should provide adequate protection. Nevertheless, while not required by regulation, NMFS continues to encourage vessel operators to avoid head-on approaches of right whales (see *Right Whale Avoidance Guidance* in the Summary of Protective Measures for details).

Interception

The proposed rule would have prohibited a vessel from turning,

positioning, or maneuvering in a manner to intercept a right whale. The interim final rule does not contain this language but maintains the general requirement by prohibiting any approach ''by interception.'' This stylistic change reflects the fact that actions designed to intercept a right whale constitute a form of approach. This interpretation is consistent with the view currently taken by NMFS in implementing the approach restrictions governing humpback whales in the Hawaiian islands.

At this time, NMFS is not defining the term ''interception.'' With this prohibition, however, NMFS intends to prohibit positioning or maneuvering that is calculated to bring a vessel or aircraft within 500 yards (460 m) of a right whale.

Right Whale Avoidance Measures

The proposed rule contained a detailed list of right whale avoidance measures in its regulatory requirements. Right whale avoidance measures were described, generally, as actions necessary to avoid takings prohibited under the MMPA or the ESA and actions necessary to comply with instructions from NMFS, the U.S. Coast Guard and other agencies concerning the avoidance of right whales. If a person, aircraft, vessel or other object were to come within 500 yards (460 m) of a right whale, right whale avoidance measures were to be followed to increase the person or object's distance from the whale. The proposed rule also provided specific guidance concerning how to increase one's distance from a right whale: (1) Sudden changes in operation were to be avoided unless necessary to avoid striking or injuring a right whale or for safe vessel or aircraft operation, (2) if one were already moving away from a right whale, approximately the same speed and direction should be maintained, (3) if one was moving toward a right whale, expeditious efforts should be made to reduce speed and to change direction away from the whale, (4) if one is approached by a whale, the person or object should move slowly but deliberately and steadily away from the whale. These requirements were not applicable under certain circumstances such as when a vessel was not underway or was restricted in its ability to maneuver.

Though still in the interim final rule, these avoidance measures have been scaled back significantly. NMFS has decided that more concise avoidance measures will enhance enforceability and will allow the use of avoidance measures that are appropriate, given the unique circumstances of any situation that is encountered.

Specifically, this interim final rule removes the general description of right whale avoidance measures as written in the proposed rule. NMFS has concluded that there is no need to repeat the statutory prohibition on taking pursuant to the ESA and MMPA. In addition, NMFS removed the regulatory requirement, as written in the proposed rule, for compliance with instructions from NMFS, the U.S. Coast Guard and other agencies, although that information may be relevant in assessing the seriousness of a violation.

Furthermore, NMFS has excluded from this rule specific regulatory requirements concerning the steps to be taken to increase one's distance from a right whale. Instead of the detailed instructions provided in the proposed regulations, the interim final regulations simply require that, if within 500 yards (460 m) of a right whale: (1) Vessels that are underway must steer a course away from the right whale and immediately leave the area at a slow safe speed; and (2) aircraft must take a course away from the right whale and immediately leave the area at a constant airspeed.

Notwithstanding these modifications, NMFS wishes to provide guidance that will assist individuals who find themselves within 500 yards (460 m) of a right whale. To that end, NMFS is providing *Right Whale Avoidance Guidance* (see Summary of Protective Measures). This guidance embraces many of the avoidance measures set forth in the proposed rule.

General Exceptions

Exceptions to the approach restrictions and the avoidance measures were listed separately from the more limited exceptions applicable only to the avoidance measures in the proposed regulations. This interim final rule groups all exceptions together. In addition, the interim final rule states clearly that a person claiming the benefit of any exception has the burden of proving that the exception is applicable.

Aircraft. The proposed rule would have prohibited approaches by aircraft within 1500 feet (460 m) of a right whale, regardless of whether the aircraft was involved in whale watching activities. NMFS has substantially modified this provision in order to limit the restrictions to aircraft-related activities of greatest concern. As modified, a broad exception is provided to the approach restrictions and avoidance measures so that these provisions only apply to aircraft that are conducting whale watching activities.

Vessels at anchor or mooring. The proposed rule included an exception from the requirement to undertake right whale avoidance measures for vessels that are not underway. The interim final rule maintains this requirement, but in a stylistically different manner. In the interim final rule, the exception is removed, but the avoidance measures are modified to apply only to vessels that are ''underway.'' As with the proposed rule, the term underway is defined to mean vessels not at anchor, made fast to the shore, or aground.

Right whale investigation or rescue efforts. This interim final rule provides an exception to the approach prohibitions and avoidance measures in a situation when a person is approaching to investigate a right whale entanglement or injury, or to assist in the disentanglement or rescue of a right whale; however, permission must be received from NMFS or a NMFS designee prior to the approach. The proposed rule did not include a similar exception; this addition in the interim final rule is in response to several commenters' requests.

Emergency situations. Both the proposed and interim final rules include an exception for emergency situations. The language of this exception is changed somewhat from the proposed rule. In addition, the recommendation within the regulatory text to contact, if possible, NMFS, the U.S. Coast Guard, local port authority, or local law enforcement officials is removed in the interim final rule, although such action may help establish that the exception is applicable in a particular situation.

Responses to Comments on the Proposed Rulemaking

Fifteen commenters responded to the proposed rule's request for comments; all submissions were considered in the preparation of this interim final rule. Responses to comments addressing significant issues and requiring a reply are summarized below:

Comment 1: Usage of the term ''disturbance'' in this rule. One commenter recommended that NMFS avoid equating the disturbance of marine mammals with ''harassment,'' explaining that the parallel is purely speculative.

Response: The 1994 amendments to the MMPA included the following definition:

(18)(A) The term ''harassment'' means any act of pursuit, torment, or annoyance which—(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing the disruption of

behavioral patterns, including, but not limited to, migration, breathing, nursing, feeding or sheltering.

Based on the best available information, NMFS has determined that, in general, close approaches to right whales by vessels, aircraft and other means have the potential to disturb or injure these animals. (For further information concerning disturbance, see also the response to *Comment 2* below.) NMFS also recognizes that not every approach within 500 yards (460 m) of a right whale necessarily results in harassment. Nonetheless, because of the precarious status of this species, NMFS has concluded that a general restriction on these types of approaches is justified.

Comment 2: The size of the buffer zone. Three commenters remarked on the lack of sufficient data to support a 500 yard (460 m) protection zone and demonstrate that it is an appropriate distance to protect right whales from behavioral disturbance. One of these commenters cited ESA section 4, which requires the publication of a summary of the data on which a regulation is based, showing the relationship of such data to the proposed/final regulation. The same commenter explained that 500 yard (460 m) zone is not correlated to the observational capabilities of ship operators or the operational capabilities of their vessels. Additional study to determine the appropriate distance was recommended. Implementation of other measures in conjunction with the approach restriction was also recommended.

In favor of the proposed rule, a fourth commenter stated that although 500 yards (460 m) may be a greater distance than necessary and may be difficult to accurately measure, it will prevent intentional close approach by vessels if it is enforced. Another commenter explained that the 500 yard (460 m) approach prohibition makes the protection of right whales in Federal waters consistent with that provided in Massachusetts State waters, where such a prohibition already exists; it is an important step in providing basic protection.

Response: NMFS has determined that a 500 yard (460 m) buffer zone is appropriate. The Recovery Team concluded that observers (lookouts) with knowledge or training should be able to distinguish right whales from other whale species at this distance. NMFS has determined that such a buffer will allow people to observe right whales (and other large whales if they are unable to identify the species with certainty) while providing a measure of protection and safety for these animals consistent with sound management practices. NMFS recognizes operational limitations, such as difficulties in establishing distances at sea in an enforcement action, that may reduce the actual zone of protection. NMFS also notes that such an approach is consistent with Massachusetts' regulations.

As indicated in the preamble to the proposed rule, right whales are vulnerable to disturbance or injury as a result of close approaches by vessels or other means. Right whales are slow-moving. This limitation and other behavioral characteristics make this species particularly susceptible to close approaches by humans. Vessel traffic may subject whales to impacts ranging from displacing cow/calf pairs from nearshore waters to expending increased energy when feeding is disrupted or migratory paths rerouted.

Furthermore, as indicated in the preamble to the proposed rule and described in more detail in the environmental assessment, turbulence associated with vessel traffic may indirectly affect right whales by breaking up the dense surface zooplankton patches in certain whale feeding areas. Right whale energetics are such that they are particularly dependent on very dense zooplankton aggregations for feeding. If copepods in the caloric-rich, adult developmental stages are not available to right whales in sufficient densities, there may be insufficient prey available in the remaining developmental stages (independent of abundance) to provide right whales with the required energy densities (as described by Kenney et al., 1986) to meet the metabolic and reproductive demands of the right whale population in the western North Atlantic (Kenney et al., 1986; Payne et al., 1990).

Prey distribution and density are believed to be among the primary governing factors in whale distribution and density in an undisturbed ecosystem. The presence of vessels in or adjacent to areas occupied by whales may cause a change in whale behavior, such as cessation of feeding activity, for the duration of the human activity. Such activity levels may cause the whales to leave localized feeding areas temporarily. Repeated disturbance of the whales may result in the abandonment of localized feeding areas. Any loss of feeding habitat or interference with feeding activities may affect the ability of these whales to obtain the full summer ration of food necessary for successful reproduction and overwintering. The severity of this loss would depend on the level of interference with feeding activity or on the availability of alternative food supplies.

While the proposed rule recognized that data and evidence of disturbance or behavioral changes induced by human activity or interactions beyond 100 yards (90 m) was limited, NMFS has considered the best available information on this issue. The critically endangered status of this species was another important consideration in establishing the appropriate size of the buffer zone. Finally, operational and practical considerations also were evaluated, such as the maximum distance at which a right whale could be identified, and difficulties in estimating distance at sea. Based on these considerations, NMFS has concluded that the area of protection around right whales should be maximized to avoid any potential for disturbance or behavioral changes and to reduce, if possible, the risk of collision; thus, a 500 yard (460 m) buffer area is appropriate.

Comment 3: Situations where the identification of the whale species is uncertain. Two commenters expressed notable support for the implementation of species-specific protective measures. According to these commenters, since right whales make up such a small fraction of the whales sighted on whale watches, it would be an undue burden on industry to limit approaches to all whales because of the remote possibility that the whale is a right whale.

Two other commenters expressed their support for a rule establishing comprehensive protection for all listed whale species, rather than partial protection on a species-by-species basis. They cited the July 22, 1996, U.S. Coast Guard Biological Opinion as a model of protection to follow and recommended revision to the proposed rule to make it a generally applicable rule that could be amended according to whatever species-specific information may be learned as part of the initiative. The rule, according to these commenters, also should establish the presumption that any whale not positively identified as another whale species must be considered a northern right whale; the fact that only the northern right whale is afforded a buffer zone presupposes that all boaters will be able to identify a northern right whale. One of these two commenters claimed that if NMFS denies any listed whales the protection of a distance rule, the operators of commercial whale watching vessels must be required to obtain incidental take permits, pursuant to section 10 of the ESA and a small take permit, pursuant to section 101(a)(5) of the

MMPA before being allowed to conduct whale watching.

Response: NMFS recognizes that under certain circumstances regulations are appropriate to address specific species in a particular area or region. Oftentimes, differences in species and marine habitat merit differences in regulatory approach. This rule pertains only to the western North Atlantic population of northern right whales. On August 3, 1992, NMFS published a proposed rule of general applicability to protect whales, dolphins and porpoise from activities associated with whale watching and to establish minimum approach distances (see 57 FR 34101). That proposal was withdrawn in 1993, in part, because it was viewed as being too broad in scope (see 58 FR 16519, March 29, 1993). At that time, NMFS began an initiative to concentrate efforts regarding marine mammal approach on a more species- and region-specific basis.

NMFS recognizes that in some situations it may be difficult for a person to differentiate between a right whale and another species of large whale at a distance of 500 yards (460 m), although the Recovery Team indicated that persons with knowledge or training could identify right whales at this distance. Thus, in order to ensure compliance with the mandates concerning right whales in this interim final rule, a person is advised to avoid approaches within 500 yards (460 m) of any large whales that cannot be identified as to species in waters along the east coast of the United States, especially in right whale high-use areas when those whales are expected to be present.

NMFS did not propose restrictions on approaches to any species except right whales. As indicated above, NMFS believes that such restrictions should be evaluated on a species- and region-specific basis, and NMFS has not completed those evaluations at this time.

With respect to the need for an incidental take permit for approaches to endangered whales, NMFS notes that this interim final rule does not authorize any approach that would constitute a ''taking'' under the ESA or MMPA. Such approaches are prohibited by statute unless a permit or other authorization is obtained; the fact that these types of approaches are not prohibited explicitly in this interim final rule should not be interpreted as any type of authorization for the taking of an endangered whale. On the other hand, NMFS also recognizes that whether a specific approach constitutes a ''taking'' and thus would require an incidental take permit must be determined on a case-by-case basis. NMFS declines to make any determination concerning the necessity of such a permit in the context of this interim final rule.

Comment 4: Applicability of rule to various approach activities. Three commenters recommended that a provision be added to the list of ''Exceptions,'' whereupon, with proper notification to either NMFS and/or the Coast Guard, a vessel would be authorized to approach to within less than 500 yards (460 m) for the purpose of confirming a right whale entanglement, reporting the nature of its distress, and/or awaiting help. Concern exists with regard to the potential for missing valuable sightings of right whale entanglements or distress because of the 500 yard (460 m) distance restriction. One of these commenters recommended that the regulations include a provision or be issued with a commitment of funding to ensure that each right whale may be approached briefly for a health assessment and photo-identification.

Response: NMFS agrees with the commenters' recommendation to include a provision to allow vessel approaches within less than 500 yards (460 m) in imminent circumstances regarding the whale's health and well-being. The provision is in place under the list of ''Exceptions'' (§ 222.32(c)) to enable close approaches to investigate a right whale entanglement or injury, or to assist in the disentanglement or rescue of a right whale, provided that permission is received from NMFS or a NMFS designee prior to the approach. In response to the comment recommending implementation of an approach provision for right whale health assessments and photo-identification, researchers may apply for a scientific research permit issued under subpart C (Endangered Fish or Wildlife Permits) of part 222.

Comment 5: Deliberate versus unintentional approaches. Three commenters recommended that the rule's prohibitions and mandated evasive maneuvers should apply only to explicit actions with the deliberate intent of approaching a right whale. Another commenter stated that the rule is overly broad in scope and attempts to regulate many activities that do not threaten physical harm to right whales. It should eliminate actions that have little or no potential to cause serious injury or mortality, such as small vessel activities, vessels traveling at very slow speeds and swimmers. According to this commenter, the rule should limit activities only during the time periods and in the geographic areas where right whales are known to congregate and where critical habitat is established, as shown by scientific data. Two other commenters recommended being explicit if whale watching is in fact the focus of the rule; the rule should be revised to narrowly address these activities.

Response: Though some activities present only a limited potential to disturb or injure right whales, NMFS believes that an expansive approach prohibition is necessary. This view is predicated upon the highly endangered status of the species, and the need to minimize those risks associated with any type of approach. Additionally, such an approach is easier to understand and enforce, thereby enhancing its overall effectiveness.

Given this rationale, the prohibition on approach applies to both intentional and unintentional approaches. This restriction reflects the fact that both intentional and unintentional approaches create a risk of disturbance or injury. Additionally, this restriction is consistent with both the MMPA and ESA, which prohibit all takings, including those that are intentional, unintentional, and incidental.

Having said this, NMFS does not wish to extend this prohibition to activities that clearly present little risk to right whales. For this reason, NMFS has modified the regulation as it applies to aircraft, only prohibiting approaches by aircraft conducting whale watching activities.

Comment 6: Vessels restricted in their ability to maneuver in certain situations—Exceptions to the rule. Two commenters requested confirmation that the proposed rule exemption granted to vessels restricted in their ability to maneuver is applicable to their situation. Another commenter requested special consideration for submerged operations where a posted lookout is not possible and where there is limited or no ability for a submerged vessel to detect the presence of right whales and to execute recommended evasions or altered courses. A fourth commenter recommended that vessels ''*in extremis,*'' as defined by the Convention on the International Regulations for Preventing Collisions at Sea, 1972, be added to proposed § 222.32(d)(2).

Response: The interim final rule recognizes the special circumstances presented by a vessel restricted in its ability to maneuver; right whale avoidance measures are not required under such circumstances. Under the COLREGS Rule 3 (See 33 CFR part 81 App. A, Part A, Rule 3) and Rule 3 of the Inland Navigation Rules (33 U.S.C. 2003) a vessel restricted in its ability to

maneuver includes, but is not limited to, a vessel engaged in dredging, a vessel engaged in submerged operations, a vessel engaged in launching or recovery of aircraft, a vessel engaged in a towing operation that severely restricts the towing vessel and the tow in their ability to deviate from their course, and various other types of vessels. NMFS interprets this definition to include a fishing vessel engaged in haulback operations and vessels in similar situations where the vessel is unable or severely limited in its ability to comply with right whale avoidance measures. To the extent that the vessel is able to maneuver in a situation where it is within 500 yards (460 m) of a right whale, it should undertake efforts to maximize its distance from and minimize interactions with the whale.

In formulating this exception, NMFS recognizes the unique, and oftentimes limiting, circumstances facing vessels operating in the Atlantic and along its coastline. Unlike Hawaii, where humpback whales are generally found nearshore and the humpback whale approach restrictions largely impact recreational vessel activity, the Atlantic distribution of right whales is more variable and the right whale approach prohibitions affect a multi-use and highly trafficked water body.

NMFS also acknowledges that what constitutes a proper lookout depends upon the prevailing conditions and circumstances and that submarine operations are somewhat unique. Maintaining a proper lookout for a submarine may include the use of sonar or other available means under the circumstances; NMFS also encourages communication efforts with submarines before the submarines enter critical habitat or areas of high use by right whales so that sighting information may be relayed to the operator. Finally, with respect to a vessel *in extremis,* NMFS has concluded that the emergency exception is applicable because of the serious and imminent threat to the vessel or person in such a situation.

Comment 7: Appropriate speed. One commenter recommended that NMFS adopt a generic rule requiring vessel operators to adjust their vessel speed and direction when whales are observed. Another commenter questioned the absence of a rationale for the exclusion of speed limits in the proposed rule.

Response: NMFS recognizes that it may be necessary, under certain circumstances, for vessels, especially large ships, to reduce speed in order to avoid prohibited approaches to right whales. Currently, vessel operators are required by COLREGS, Rule 6, to proceed at safe speed so that the vessel can take proper and effective action to avoid collision and ''be stopped within a distance appropriate to the prevailing circumstances and conditions'' (72 COLREGS, see 33 CFR part 81 App. A. Part B, Section 1, Rule 6). An identical requirement is imposed under the Inland Navigational Rules, 33 U.S.C. 2006. These and other regulations limiting vessel speed should be interpreted with a consideration of the risk of a close approach to a right whale.

While vessel speed remains a concern with regard to right whale avoidance, NMFS also recognizes that other agencies and organizations may have special expertise and authority with respect to this subject and that specific or detailed guidance on speed may depend on the operational characteristics of a vessel or the circumstances under which it is operated. The focus of the proposed rule and this interim final rule is on restricting approaches within 500 yards (460 m) of a right whale. In that respect, this interim final rule requires that vessels within the restricted area immediately leave the area at a slow safe speed. NMFS encourages adherence to the speed regulations already in place, but it declines to adopt further speed restrictions in this interim final rule.

Comment 8: Aircraft. One commenter stated that actions having little or no potential to cause serious injury or mortality, such as military aircraft approaches and overflights, small vessel activities, should be eliminated from the rule, i.e., only limit the class of actions that may physically harm right whales. Two additional commenters claim that NMFS overlooks military aircraft maneuvers, especially in the southeast United States while right whales are in calving grounds, and overlooks what type of regulations the military have to follow for these exercises; exceptions should be made in some cases. A fourth commenter remarked that the 500 yard (460 m) prohibition may impact aircraft takeoffs and landings in an unacceptable manner for safety, glide path and air traffic operations.

Response: NMFS has reconsidered its original proposal to limit all aircraft to an altitude of no less than 1500 feet (460 m) above a right whale. As modified in the interim final rule, a broad exception is provided for most aircraft operations so that approach restrictions and avoidance measures are applicable only to aircraft conducting whale watching activities.

Comment 9: Economic impacts. One commenter remarked that the avoidance measures may result in substantial delays to shipping and, thus, increase costs to the industry. According to this commenter, there is no evidence that NMFS has actually calculated the chances that a vessel would have to adhere to avoidance measures; nor has NMFS calculated the effect of those measures on the vessel's arrival in port and transportation costs. A second commenter suggested that transportation costs are likely to increase for commercial vessels based on increased transit time as a result of this regulation.

Response: NMFS concluded that the proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. While this rule may have a minor impact on whale watching activities, especially in early spring when right whales, but no other whale species, are likely to be in the area where these activities occur, the cost of delaying operations for a few weeks, with respect to expected revenues, is not considered significant.

Similarly, this rule is expected to have only a minor impact on commercial shipping and other vessel activities. Adjustments to speed or a more vigilant lookout would be appropriate under current law to avoid the risk of taking a right whale, especially in areas where, and at times when, right whales are known or expected to be present. In light of existing law, any change in operation and any costs associated with these changes in operation necessitated by the implementation of this interim final rule are not considered significant when compared to expected revenues.

Comment 10: Additional research needs—Cumulative effects. Three commenters recommended implementation of a research component to examine existing and future technologies and methods that may lead to the healthy coexistence of human activities and these species, e.g., increased surveillance of right whale movement, assessment of shipping traffic relative to high risk areas; determination of what distance disrupts feeding behavior and establishment of this distance restriction on feeding grounds; evaluation of deterrents including sonar; and, finally, a follow-up on the New England Aquarium/MIT ship modeling study to include (a) other vessel types, and (b) the depth dimension. According to one of the commenters, a distance rule should be based on studies of the reactions of right whales to vessel approaches with varying sound signatures, and the effect of vessels of dense plankton aggregations at or near the surface.

Another of the three commenters suggested that, although additional study was necessary to determine the appropriate right whale approach distance, an interim rule could be implemented in the meantime to prohibit commercial and recreational whale watching programs from focusing on right whales. Two additional commenters remarked on the potential for inaccuracies when making cross-species behavioral comparisons.

Response: NMFS acknowledges that long-term studies in this area are needed. However, the absence of definitive long-term research results does not preclude the adoption of protective measures. The ESA generally requires NMFS to use the best available information in managing protected species. In this case, the available information reviewed by NMFS indicates that right whales may be disturbed by human activity, especially close approaches within 500 yards (460 m). NMFS believes there is sufficient information available to support this action. (See also the response to *Comment 2*.)

NMFS may revise protection efforts accordingly if future research demonstrates that additional or different means of protection are needed. Other human-induced factors mentioned in the Recovery Plan that pose a threat to the right whales will be addressed in separate rulemakings or through other management initiatives.

Additionally, immediate protective measures are appropriate since they represent an important step in increasing public awareness of the problems caused by disturbance and vessel interactions with right whales. Finally, these regulations will complement other initiatives, such as efforts to communicate information concerning the location of right whales to vessel operators and any initiatives that may be undertaken internationally, as well as efforts to undertake further research.

Comment 11: Noise. Two commenters suggested that, in terms of the harm caused to whales by vessels, the cumulative effect (noise) of many vessels in a limited area is one of the most serious concerns in that it may cause abandonment or decrease in use of important right whale habitats.

Response: NMFS recognizes that this problem warrants further study. While not specifically designed for this purpose, this interim final rule may reduce vessel noise in the vicinity of right whales by restricting human approaches.

Comment 12: Enforcement/compliance. According to one commenter, the definition ''to approach head on'' is subjective and will be difficult to enforce. A vessel operator could easily argue an intention to change course to avoid intercepting a whale; enforcement officials could not easily refute this argument. This commenter also recommended that NMFS remove proposed §§ 222.32(b)(4) and (5) that would have required vessels not to approach a right whale head-on from any distance once observed and identified or to cause a vessel to be turned positioned or maneuvered in a manner to intercept a right whale. According to the commenter, these restrictions are vague and are drafted to preclude maneuvers at any distance from a sighted right whale, which could impact vessel operation for miles.

Two other commenters believe that enforcement of the regulation and/or prosecution for violations would be extremely difficult, given the somewhat subjective nature of the approach standards. To minimize or eliminate concerns regarding the inability to enforce conservation measures and to conduct measures of environmental protection or navigational aid, especially in cases of emergency, one of these commenters suggested including a third exception under § 222.32(d)(3): ''Coast Guard law enforcement, marine environmental protection and aid to navigation operations.''

Another commenter requested that NMFS outline what enforcement it proposes and how the results of the rule will be reported to the public. The same commenter requested clarification of the second paragraph in the first column on page 41119 of the proposed rule (61 FR 41119, August 7, 1996), in that it currently implies that violation of this rule would not be considered an incidental take. This commenter also wanted to know how NMFS will address/enforce right whale protection at night, in rain, fog or high sea states to ensure whales are not disturbed.

A final commenter remarked that the prohibitions and avoidance measures in the proposed rule may result in vessel movement that would conflict with USCG Traffic Separation Schemes for the Atl. East Coast, 33 CFR part 167 *et seq.* and Rule 10 of the International Regs for Preventing Collisions at sea 33 foll. § 1602, Rule 10, rules that provide safe access routes for vessels proceeding to and from U.S. ports.

Response: NMFS has reconsidered its original proposal to prohibit head-on approaches to right whales. NMFS recognizes that this provision would be difficult to interpret and enforce; that provision is not included in this interim final rule. On the other hand, while not required by regulation, NMFS continues to encourage vessel operators to avoid head-on approaches of right whales.

While NMFS has concluded that, in general, approaches within 500 yards (460 m) of right whales have the potential to disturb or injure these animals, NMFS also recognizes that whether an incidental take occurs in any specific approach may depend on the circumstances of that approach. NMFS also recognizes that circumstances such as rain, fog, sea state, and visibility may affect the ability of an operator to avoid close approaches to right whales. Extra caution is urged in these situations. In addition, NMFS is working with other agencies and organizations to enhance vessel traffic coordination. (See response to *Comment 15*.)

NMFS disagrees with claims that these approach and avoidance requirements are unenforceable. The approach prohibition largely mirrors a similar restriction enacted in 1987 for the protection of humpback whales in the Hawaiian Islands. Past experience in Hawaii suggests that this prohibition is easy to understand and enforce. Indeed, NOAA has successfully prosecuted many cases involving vessels that have violated this approach prohibition.

Additionally, from an enforcement perspective, this approach prohibition ensures more effective prosecution of inappropriate activities. The prohibition establishes a clear, objective, distance requirement. This requirement is easily understood by the vast majority of individuals who wish to legally observe right whales, and is far easier to prosecute in the event of a violation.

NMFS agrees with comments that stress the need for enforceable requirements. To that end, NMFS has made significant modifications from the proposed rule, especially to those provisions addressing right whale avoidance measures. NMFS has deleted provisions addressing head-on approaches and many of the speed and directional provisions applicable to aircraft and vessels within 500 yards (460 m) of a right whale. These changes are designed to simplify the requirements and enhance enforceability.

NMFS does not believe that these requirements are unduly burdensome. The rule provides an exception in instances where compliance would create an imminent and serious threat to any person, vessel, or aircraft. NMFS also recognizes that law enforcement activities are exempt from prohibitions such as this rule under traditional common law theories. Additionally, NMFS has the authority to consider

mitigating factors, such as the difficulty of compliance, in determining the appropriate enforcement response.

Finally, NMFS does not anticipate conflicts between this rule and regulations governing traffic separation schemes. Navigation rules provide for special exceptions in cases where departure from those rules is necessary to avoid immediate danger and, with respect to compliance with traffic separation schemes, in emergency circumstances. (See Rule 2 and Rule 10 of the COLREGS (See 33 CFR Part 81 App. A, Part A, Rule 2 and Part B, Section 1, Rule 10) and Rule 2 and 10 of the Inland Navigation Rules (33 U.S.C. 2002 and 2010)). In addition, this interim final rule provides for an emergency exception; NMFS recognizes that the applicability of this or other exceptions in this interim final rule must be evaluated in the context of the circumstances.

Comment 13: Reports of right whale sightings. One commenter notes that, although the proposed rule implies that vessel personnel are expected to report right whale sightings and locations, it contains no legal requirement for personnel to report.

Response: NMFS concurs. If a right whale is positively identified and observed, lookouts and/or vessel operators are encouraged to report right whale sightings and locations to the U.S. Coast Guard or other appropriate port authority, and request assistance if appropriate. Knowledge of the location of right whales may help prevent potential collisions and allow vessels to implement appropriate whale avoidance measures. Refer to the *Right Whale Avoidance Guidance* (see Summary of Protective Measures) for further information.

Comment 14: Authority citations. One commenter recommends that NMFS delete its reference to the Fish and Wildlife Act of 1956 in the proposed rule.

Response: The authority section for 50 CFR part 217, (this part is entitled ''General Provisions'' and includes a variety of definitions), currently includes the reference to the Fish and Wildlife Coordination Act. The approach regulations (except for the definitions) are issued under 50 CFR part 222, subpart D. The authority citation clearly indicates that those regulations are issued under the authority of the ESA and MMPA. The Fish and Wildlife Coordination is not cited as authority for that part or subpart of the CFR.

Comment 15: Vessel traffic coordination. Six commenters expressed support for the coordination of whale alert teams in the southeast and northeast Atlantic set up to note whale locations and report them to the appropriate authorities, who then relay that information to ships in close range.

Response: NMFS concurs and notes that these efforts will increase public awareness and the effectiveness of this interim final rule. In coastal waters of the southeastern United States, an awareness and mitigation program, involving ten agencies and organizations, was begun in 1992, and has been upgraded and expanded annually. This effort includes an established Early Warning System network designed to prevent whale/vessel collisions on the calving grounds. NMFS also recently established an early warning network to alert mariners to the location of right whales off Massachusetts. This collaborated effort of the U.S. Coast Guard, the State of Massachusetts, the Center for Coastal Studies, the Stellwagen Bank National Marine Sanctuary and NMFS will make sighting information available through marine radio announcements, automated fax, and the Internet with the intention to reduce the chances of collisions between vessels and whales in New England waters.

Comment 16: Jurisdictional applicability. One commenter recommended clarification of the rule to indicate its applicability only to U.S. citizens and U.S.-flagged vessels, in order to be consistent with international law.

Response: Clearly this interim final rule applies to U.S. citizens and U.S.-flagged vessels. The prohibitions in the ESA generally apply to all persons subject to the jurisdiction of the United States, which includes foreign nationals and vessels in appropriate cases. With certain exceptions, the MMPA also prohibits any person, vessel or conveyance subject to the jurisdiction of the United States from taking a marine mammal on the high seas; any person, vessel or conveyance is prohibited from taking a marine mammal within the U.S. territorial sea or the exclusive economic zone (EEZ), except as expressly provided for by an international treaty, convention or agreement or associated implementing statute. NMFS disagrees that the applicability of the final rule to foreign vessels would necessarily conflict with international law. U.S. jurisdictional authority over vessels other than U.S.-flagged vessels depends upon the circumstances of each particular case. In all cases, however, the United States intends to enforce this rule consistently with international law, including customary international law as reflected in the 1982 United Nations Convention on the Law of the Sea.

Comment 17: Territorial Sea. One commenter questioned the necessity of defining ''territorial sea'' for the proposed and final rules. In issuing the proposed rule, NMFS had set forth its view that the territorial sea jurisdiction under the ESA encompassed the area within 12 nautical miles (nm) (22.2 kilometers (km)) of the baseline. This commenter disagrees with NMFS defining the extent of the U.S. territorial sea as 12 nm (22.2 km) rather than 3 nm (5.6 km) seaward of the baseline on the grounds that Presidential Proclamation 5928 extended the U.S. territorial sea to 12 nm (22.2 km) for international but not for domestic, legal purposes. Also according to this commenter, the extent to which the term is being revised for the purposes of 50 CFR parts 216 to 227 is outside the scope of the rule and does not sufficiently provide for public notice and opportunity for comment.

Response: NMFS disagrees that the definition of ''territorial sea,'' as presented in the proposed rule, is outside the scope of this rulemaking. NMFS also notes that to the extent that the definition would announce an interpretation of the ESA, there is no need for advance public notice or opportunity to comment. Finally, NMFS does not agree with the commenter's interpretation of the jurisdictional scope of the ESA and the effect of the Presidential Proclamation on that scope. Nonetheless, NMFS has decided not to issue a regulatory definition of the ''territorial sea'' in this interim final rule in order to have additional time to consult with other Federal agencies; this issue will be resolved prior to issuing a final rule.

Again, NMFS emphasizes that the restriction on approaches to right whales is promulgated under the authority of both the ESA and the MMPA. The MMPA defines ''waters under the jurisdiction of the United States'' to include both the territorial sea and the EEZ which extends 200 nm (370 km) beyond the baseline from which the territorial sea is measured. The ESA does not refer to the EEZ although persons subject to U.S. jurisdiction are prohibited from taking endangered species, both within the territorial sea and upon the high seas.

Summary of Protective Measures

There is good reason to believe that if the full range of human impacts specified by the Recovery Team were reduced, the chance for species recovery would be maximized. This rule should be considered an important step towards that goal.

Description of the Interim Final Rule

In order to minimize the risk that human activities will disturb or cause other behavioral changes in right whales and to reduce the risk of vessel collisions and other interactions, this interim final rule is established: (1) To prohibit approach (including by interception) within 500 yards (460 m) of a right whale whether by vessel, aircraft or other means; and (2) to require adherence to right whale avoidance measures if a vessel or aircraft is within this restricted area.

Right whale avoidance measures are those actions necessary to be taken within 500 yards (460 m) of a right whale, as follows: (1) Vessels must steer a course away from the right whale and immediately leave the area at a slow constant speed (See *Right Whale Avoidance Guidance* for supplementary instruction); and (2) aircraft must take a course away from the right whale and immediately leave the area at a constant airspeed.

Exceptions to the interim final rule include: (1) Approaches to right whales that have been authorized by a NMFS permit (under subpart C (Endangered Fish or Wildlife Permits) or similar authorization; (2) situations of imminent and serious threat to the safety or life of a person, vessel or aircraft; (3) approaches made for the purpose of investigating a right whale entanglement or assisting in a right whale rescue or disentanglement, provided that prior permission is received from NMFS or a NMFS-designee; (4) aircraft operations, unless that aircraft is conducting whale watch activities; and (5) a vessel or aircraft restricted in its ability to maneuver and unable to comply with the right whale avoidance measures. Any person, who claims the benefit of any of the above exceptions has the burden to prove that the exception is applicable.

Right Whale Avoidance Guidance

As stated earlier in this preamble, NMFS wishes to provide guidance, separate and apart from the specific approach prohibitions and avoidance measures found in the regulations. This guidance is offered to assist individuals who find themselves in the vicinity of a right whale, with the aim of minimizing the possibility of interaction and the level of disturbance associated with any interaction. The guidelines are advisory only, and NMFS encourages individuals to follow them to the extent that doing so is consistent with the controlling, regulatory approach restrictions and avoidance measures.

Vessel lookout. Vessel operators are encouraged to maintain a proper lookout for right whales, especially when right whales are known to frequent an area. If a right whale is observed, increased vigilance is recommended, since other right whales also may be present in the area. Such vigilance is consistent with Rule 5 of the COLREGS (See 33 CFR Part 81 App. A, Part B, Section 1, Rule 5) and Rule 5 of the Inland Navigation Rules (33 U.S.C. 2005). Such vigilance may prevent inadvertent approaches as well as enable vessels to take all necessary avoidance measures.

If a right whale is positively identified and observed near a port, in a channel, in an established shipping lane, or in other areas with a high concentration of shipping activity, a vessel operator should report the sighting to the U. S. Coast Guard or other appropriate port authority, and request assistance if appropriate. Likewise, where the presence of a right whale would inhibit the entry of a large ship into a port or otherwise interfere with vessel operations, a vessel operator is encouraged to contact the U.S. Coast Guard or port authority for assistance or instruction.

Vessel speed. Vessel operators also are encouraged to proceed at prudent speed when transiting waters frequented by right whales. Prudence may require transit at a reduced speed in order to avoid approaching within 500 yards (460 m) of a right whale, or to enable vessels to follow any necessary avoidance measures. Such prudence is consistent with Rule 6 of the COLREGS and Rule 6 of the Inland Navigation Rules, which require vessels to proceed at a safe speed, so that the vessel can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions.

Sudden changes in operation. In order to minimize the potential for disturbance to a right whale, changes in vessel speed and direction should be gradual. To that end, rapid acceleration, use of bow thrusters, and sudden changes in propeller pitch are discouraged.

Head-on approaches. In order to minimize the risk of an unlawful approach, NMFS encourages vessel operators to avoid approaching a right whale head-on. Once a right whale is sighted, vessel operators should alter course to ensure that an approach within 500 yards (460 m) is avoided.

Classification

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that this rule would not have a significant economic impact on a substantial number of small entities. NMFS received two comments, addressed above, concerning the economic impact of this rule. These comments did not cause the Assistant General Counsel to change his determination regarding the certification. Furthermore, the changes made from the proposed rule to the interim final rule do not affect the reasons for the certification. As a result, no regulatory flexibility analysis was prepared.

This interim final rule has been determined to be not significant for purposes of E.O. 12866.

This interim final rule does not contain a collection-of-information requirement, subject to the Paperwork Reduction Act.

List of Subjects

50 CFR Part 217

Endangered and threatened species, Exports, Fish, Imports, Marine mammals, Transportation.

50 CFR Part 222

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

Dated: February 7, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 217 and part 222 are amended as follows:

PART 217—GENERAL PROVISIONS

1. The authority citation for part 217 is revised to read as follows:

Authority: 16 U.S.C. 742a *et seq.*, 1361 *et seq.*, and 1531–1544, unless otherwise noted.

2. In § 217.12, the definitions of ''Right whale,'' ''Underway,'' ''Vessel,'' and ''Vessel restricted in her ability to maneuver'' are added in alphabetical order to read as follows:

§ 217.12 Definitions.

* * * * *

Right whale, as used in subpart D of this part, means any whale that is a member of the western North Atlantic population of the northern right whale species (*Eubalaena glacialis*).

* * * * *

Underway, with respect to a vessel, means that the vessel is not at anchor, or made fast to the shore, or aground.

* * * * *

Vessel includes every description of watercraft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water.

Vessel restricted in her ability to maneuver has the meaning specified for this term at 33 U.S.C. 2003(g).

* * * * *

PART 222—ENDANGERED FISH OR WILDLIFE

3. The authority citation for part 222 is revised to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*; subpart D also issued under 16 U.S.C. 1361 *et seq.*

4. Section 222.32 is added to subpart D to read as follows:

§ 222.32 Approaching North Atlantic right whales.

(a) *Prohibitions.* Except as provided under paragraph (c) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, to solicit another to commit, or cause to be committed any of the following acts:

(1) Approach (including by interception) within 500 yards (460 m) of a right whale by vessel, aircraft, or any other means;

(2) Fail to undertake required right whale avoidance measures specified under paragraph (b) of this section.

(b) *Right whale avoidance measures.* Except as provided under paragraph (c) of this section, the following avoidance measures must be taken if within 500 yards (460 m) of a right whale:

(1) If underway, a vessel must steer a course away from the right whale and immediately leave the area at a slow safe speed;

(2) An aircraft must take a course away from the right whale and immediately leave the area at a constant airspeed.

(c) *Exceptions.* The following exceptions apply to this section, but any person who claims the applicability of an exception has the burden of proving that the exception is applicable:

(1) Paragraphs (a) and (b) of this section do not apply if a right whale approach is authorized by NMFS through a permit issued under subpart C (Endangered Fish or Wildlife Permits) of this part or through a similar authorization.

(2) Paragraphs (a) and (b) of this section do not apply where compliance would create an imminent and serious threat to a person, vessel, or aircraft.

(3) Paragraphs (a) and (b) of this section do not apply when approaching to investigate a right whale entanglement or injury, or to assist in the disentanglement or rescue of a right whale, provided that permission is received from NMFS or a NMFS designee prior to the approach.

(4) Paragraphs (a) and (b) of this section do not apply to an aircraft unless the aircraft is conducting whale watch activities or is being operated for that purpose.

(5) Paragraph (b) of this section does not apply to the extent that a vessel is restricted in her ability to maneuver, and because of the restriction, cannot comply with paragraph (b) of this section.

[FR Doc. 97–3632 Filed 2–10–97; 3:49 pm]
BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 62, No. 30
Thursday, February 13, 1997

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No.96–038–2]

RIN 0579–AA81

User Fees; Agricultural Quarantine and Inspection Services; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects several typographical errors in the preamble to a proposed rule published in the Federal Register on January 27, 1997 (62 FR 3823–3830, Docket No. 96–038–1), regarding user fees for agricultural quarantine and inspection services.

FOR FURTHER INFORMATION CONTACT: For information concerning program operations, contact Mr. Jim Smith, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236, (301) 734–8295. For information concerning rate development, contact Ms. Donna Ford, PPQ User Fees Section Head, FSSB, BAD, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232, (301) 734–5901.

Correction

In proposed rule FR Doc. 97–1892, beginning on page 3823 in the Federal Register of January 27, 1997, make the following corrections, in the **SUPPLEMENTARY INFORMATION** section. On page 3825, third column, in the sixth line, remove ''FY 1997–20020'', and add ''FY 1997–2002'' in its place. On page 3826, in the tables headed ''PROPOSED AQI USER FEE RATES—FY 1998'' and ''PROPOSED AQI USER FEE RATES—FY 2001'', in the lines for ''Commercial trucks'', remove references to footnote ''1'', and add references to footnote ''2'' in its place. On page 3827, in the table headed ''AGRICULTURAL QUARANTINE INSPECTION (AQI) USER FEES—Continued'', under the column headed ''FY98'', remove ''5.75'', and add ''59.75'' in its place.

Done in Washington, DC, this 6th day of February 1997.

Richard R. Kelly,

Acting Chief, Regulatory Analysis and Development, Animal and Plant Health Inspection Service.

[FR Doc. 97–3565 Filed 2–12–97; 8:45 am]

BILLING CODE 3410–34–P

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

Common Crop Insurance Regulations, Onion Crop Insurance Provisions; and Onion Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes specific crop provisions for the insurance of onions. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current onion endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current Onion Endorsement to the 1997 and prior crop years.

DATES: Written comments, data, and opinions on this proposed rule will be accepted until close of business March 17, 1997, and will be considered when the rule is to be made final. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through April 14, 1997.

ADDRESSES: Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131. Written comments will be available for public inspection and copying in room 0324, South Building, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC., 8:15–4:45, est, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Bill Klein, Program Analyst, Research and Development Division, Product Development Branch, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866 and, therefore, has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The title of this information collection is ''Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Onion Crop Insurance Provisions.'' The information to be collected includes a crop insurance application and an acreage report. Information collected from the application and acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of onions that are eligible for Federal crop insurance.

The information requested is necessary for the insurance company and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. The reporting burden for this collection of information is estimated to average 16.9 minutes per response for each of the 3.6 responses from approximately 1,242,510 respondents. The total annual burden on the public for this information collection is 1,889,363 hours.

FCIC is requesting comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be

collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. 20503.

The Office of Management and Budget (OMB) is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. The insured must also annually certify to the number of acres and the previous years production, if adequate records are available to support the certification, or receive a transitional yield. The producer must maintain the production records to support the certification information for at least three years. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will not have retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.135, Onion Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring onions found at 7 CFR 401.126. FCIC also proposes to amend 401.126 to limit its effect to the 1997 and prior crop years. FCIC will later publish a regulation to remove and reserve § 401.126

This rule makes minor editorial and format changes to improve the Onion Endorsement's compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring onions as follows:

1. Section 1—Add definitions for the terms ''crop year,'' ''days,'' ''direct marketing,'' ''FSA,'' ''final planting date,'' ''good farming practices,'' ''hundredweight,'' ''interplanted,'' ''irrigated practice,'' ''late planted,'' ''late planting period,'' ''lifting or digging,'' ''non-storage onions,'' ''planted acreage,'' ''practical to replant,'' ''prevented planting,'' ''production guarantee (per acre),'' ''replanting,'' ''storage onions,'' ''timely planted,'' ''topping,'' ''type,'' and ''written agreement,'' for clarification. Add the definition of ''onion production'' to clearly identify production to count for harvested and unharvested onions. Current provisions do not provide this definition.

2. Section 3(b)—Add provisions that allow insurance for the onion crop in three stages and provide the percentage of coverage and the qualifications for each stage. Guarantees by stage will reduce indemnities to reflect lower out-of-pocket production costs when a crop loss occurs early in the growing season.

3. Section 4—Add a June 30 contract change date for states and counties with an August 31 cancellation date and change the contract change date to November 30 preceding the cancellation date for the other states and counties. This maintains an adequate time period between this date and the cancellation date revised to correspond to the change in the sales closing date and comply with the Federal Crop Insurance Reform Act of 1994, and allows producers sufficient time to make informed risk management decisions. The current contract change date is December 31.

4. Section 5—Add an August 31 cancellation and termination date for states and counties with fall seeded non-storage type onions. The cancellation and termination dates have been changed to February 1 for all other onions in all states and counties. These changes are intended to minimize program vulnerabilities which may exist

because insureds may be able to anticipate unfavorable growing conditions and obtain indemnities to which they might otherwise not be entitled.

5. Section 6—Revise the annual premium section to clarify that the premium is based on the third stage production guarantee.

6. Section 7(b)—Add non-storage type onions as an insured crop to provide crop insurance protection for producers of this commodity.

7. Section 7(c) (1) and (2)—Add provisions allowing insurance for onions interplanted with a windbreak crop to protect the onion plants when they are small and tender. This is a standard practice in certain areas of the country which have sandy soils and frequently experience strong winds. This section also allows insurance for onions interplanted into a grass or legume provided this practice would not adversely affect the amount or quality of the production.

8. Section 8(a)—Clarify that acreage of the onion crop is not insurable if it does not meet the stated rotation requirements, unless different rotational requirements are shown on the Special Provisions or we agree in writing to insure the acreage.

9. Section 8(b)—Clarify that any acreage damaged prior to the final planting date must be replanted unless the insurance provider agrees that it is not practical to replant.

10. Section 9(b)(1)—Add dates for the end of insurance period for fall planted non-storage onions in Georgia, Oregon, and Texas, and for spring planted non-storage onions. The date for the end of insurance period in Colorado was changed from September 30 to October 15, since it is a normal practice to harvest onions after September 30.

11. Section 9(b)(2)—Specify the end of insurance period as 2 days after lifting or digging of non-storage onions and 14 days after lifting or digging of storage type onions to allow appropriate time for field drying without creating an unacceptable risk to the insurance provider.

12. Section 10(a) (3)and (4)—Add provisions to clarify that any losses caused by insufficient or improper application of pest or disease control measures are not an insured cause of loss.

13. Section 10(b)—Add provisions to clarify that we do not insure against any loss of production due to damage that occurs or becomes evident after the end of the insurance period, including, but not limited to, damage that occurs after the onions have been placed in storage.

14. Section 11—Add provisions to allow producers to receive a replanting payment when it is considered practical to replant. Provisions are also added which provide that replanting with a practice that is uninsurable as an original planting will cause the liability for the unit to be reduced by the amount of the replanting payment.

15. Section 12(b)—Require the producer to give notice at least 15 days prior to harvest so a preharvest inspection can be made if production is to be sold by direct marketing. This appraisal may be used to determine the amount of production to count.

16. Section 13(b)—Remove the provision that required multiplying the total production to be counted by the greater of the local market price at the time the onions are appraised or by the respective price election. When the onion insurance was originally offered this language was considered necessary due to the extreme swings in the market price. The market appears to be less volatile today, and the ''greater of'' language can result in a hardship to producers when they have appraised production that is valued at the local market price, and that price is considerably higher than their price election. The new provision requires multiplying the total production to be counted of each type, if applicable, by the respective price election the producer chose.

17. Section 13(d)—Add provisions that allow for no production to be counted for the unit or portion of a unit if the appraised percent of damage exceeds the percentage shown by type in the Special Provisions, unless onions from that acreage are subsequently harvested and sold.

18. Section 13(e)—Add provisions to clarify that the extent of damage must be determined not later than the time onions are placed in storage, if the production is stored prior to sale, or the date they are delivered to a packer, processor, or other handler if the production is not stored.

19. Section 14—Add late and prevented planting provisions to the policy. This insurance coverage was previously only provided by the execution of a separate Late Planting Agreement Option. To ease the administrative burden, this coverage is now included in the policy and the premium included in the premium owed for the unit.

20. Section 15—Add provisions for providing insurance coverage by written agreement. FCIC has a long standing policy of permitting certain modifications of the insurance contract by written agreement for some policies. This amendment allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover application for and duration of written agreements.

List of Subjects in 7 CFR Parts 401 and 457

Crop Insurance, Onion Endorsement, Onion.

Proposed Rule

For the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby proposes to amend 7 CFR parts 401 and 457, as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(p).

2. The introductory text of § 401.126 is revised to read as follows:

§ 401.126 Onion Endorsement.

The provisions of the Onion Endorsement for the 1988 through 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

3. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(p).

4. Section 457.135 is added to read as follows:

§ 457.135 Onion Crop Insurance Provisions.

The Onion Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

ONION CROP PROVISIONS

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, and the Special Provisions, the Special Provisions will control these Crop Provisions and the Basic Provisions, and these Crop Provisions will control the Basic Provisions.

1. Definitions

Crop year—The time period in which the onions are normally grown and designated by the calendar year in which the onions are normally harvested.

Days—Calendar days.

Direct marketing—Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of harvesting all or a portion of the crop.

FSA—The Farm Service Agency, an agency of the United States Department of Agriculture or a successor Agency.

Final planting date—The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

Good farming practices—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest—Removal of the onions from the field after topping and lifting or digging.

Hundredweight—100 pounds avoirdupois.

Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Late planted—Acreage planted to the insured crop during the late planting period.

Late planting period—The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date.

Lifting or digging—A pre-harvest process in which the onion roots are severed from the soil and the onion bulbs laid on the surface of the soil for drying in the field.

Non-storage onions—Generally of a Bermuda, Granex, or Grano variety, or hybrids developed from these varieties, which are dried only a short time, and consequently have a higher moisture content. They are thinner skinned, contain a higher sugar content, and are generally milder in flavor than storage type onions. Due to a higher moisture and sugar content, they are subject to deterioration both on the surface and internally if they are not used shortly after harvest.

Onion production—All onions of recoverable size and condition, with excess dirt and foliage material removed, and of storable or marketable condition, commonly called ''first net weight.'' In addition to small onions lost during harvesting and initial cleaning, the Special Provisions may specify a minimum onion size, based on the ''U.S. or other Standards for Repacked Onions,'' to be used to determine onion production to count.

Planted acreage—Land in which seed or onion plants have been placed by a machine appropriate for the insured crop and planting method, or in which onion plants have been transplanted by hand, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Onions must initially be planted in rows to be considered planted.

Practical to replant—In lieu of the definition of ''Practical to replant'' contained in section 1 of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, condition of the field, time to crop maturity, and marketing window, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

Prevented planting—Inability to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county or the end of the late planting period. You must have been unable to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

Production guarantee (per acre):

(a) First stage production guarantee—Thirty-five percent of the third stage production guarantee.

(b) Second stage production guarantee—Sixty percent of the third stage production guarantee.

(c) Third stage production guarantee—The quantity of onions (in hundredweight) determined by multiplying the approved yield per acre by the coverage level percentage you elect.

Replanting—Performing the cultural practices necessary to replace the onion seed or onion transplants, and then replacing the onion seed or onion transplants in the insured acreage with the expectation of growing a successful crop.

Storage onions—Onions other than a Bermuda, Granex, or Grano variety, or hybrids developed from these varieties which are dried to a lower moisture content, are firmer, have more outer layers of paper-like skin, and are darker in color than non-storage onions. They are generally more pungent, have a lower sugar content, and can normally be stored for several months under proper conditions prior to use without deterioration.

Timely planted—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Topping—A pre-harvest process to initiate curing, in which onion foliage is removed or bent over.

Type—A category of onions as identified in the Special Provisions.

Written agreement—A written document that alters designated terms of this policy in accordance with section 15.

2. Unit Division

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) may be divided into optional units if, for each optional unit you meet all the conditions of this section or if a written agreement to such division exists.

(b) Basic units may not be divided into optional units on any basis other than as described in this section.

(c) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you.

(d) All optional units you selected for the crop year must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(3) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until after loss adjustment is completed by us; and

(4) Optional units meet one or more of the following, as applicable:

(i) *Optional Units Based on Irrigated Acreage or Non-Irrigated Acreage* To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which your guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which the center pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. However, non-irrigated acreage that is not a part of a field in which a center pivot irrigation system is used may qualify as a separate optional unit provided all requirements of this section are met; or

(ii) *Optional Units Based on Onion Type* To qualify for a separate optional unit by type, the onions must be designated by type in the Special Provisions.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the onions in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each onion type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) The production guarantees in the actuarial table are the third stage guarantees. The stages are:

(1) First stage extends from planting until the emergence of the third leaf for direct seeded onions.

(2) Second stage extends from emergence of the fourth leaf for direct seeded onions, or from transplanting of onion plants, until 25 percent of the acreage in the unit has been subjected to topping and lifting or digging.

(3) Third stage extends from the completion of topping and lifting or digging on more than 25 percent of the applicable acreage in the unit until the end of the insurance period.

(c) The production guarantee will be expressed in hundredweight.

(d) Any acreage of onions damaged in the first or second stage, to the extent that producers in the area would not normally further care for the onions, will be deemed to have been destroyed even though you may continue to care for the onions. The production guarantee for such acreage will not exceed the production guarantee for the stage in which the damage occurred.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8)), the contract change date is June 30 preceding the cancellation date for counties with an August 31 cancellation date and November 30 preceding the cancellation date for all other counties.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of the Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are:

State and county	Cancellation and termination date
All Georgia Counties; Umatilla County, Oregon; Kinney, Uvalde, Medina, Bexar, Wilson, Karnes, Bee, and San Patricio, Counties, Texas, and all Texas Counties lying south thereof; Walla Walla County, Washington.	August 31.
All other states and counties.	February 1.

6. Annual Premium

In lieu of the provisions of section 7(c) (Annual Premium) of the Basic Provisions (§ 457.8), the annual premium amount is computed by multiplying the third stage production guarantee by the price election, times the premium rate, times the insured acreage, times your share at the time of planting, and times any applicable premium adjustment factors contained in the Actuarial Table.

7. Insured Crop

In accordance with section 8 (Insured Crop of the Basic Provisions (§ 457.8), the crop insured will be all the onions (excluding green (bunch) or seed onions, chives, garlic, leeks, and scallions) in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That are either of a storage type onion planted for harvest as dry onions (bulb onions) or of a non-storage type onion planted for harvest as partially dried fresh market bulb onions;

(c) That are not (unless allowed by the Special Provisions or by written agreement):

(1) Interplanted with another crop unless the onions are interplanted with a windbreak crop and the windbreak crop is destroyed within 70 days after completion of seeding or transplanting; or

(2) Planted into an established grass or legume.

8. Insurable Acreage

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), we will not insure any acreage of the insured crop that:

(a) Was planted to storage or non-storage bulb onions, green (bunch) onions, seed onions, chives, garlic, leeks, shallots, or scallions the previous year unless different rotation requirements are specified in the Special Provisions or we agree in writing to insure such acreage; or

(b) Is damaged before the final planting date to the extent that the majority of producers in the area would normally not further care for the crop and is not replanted, unless we agree that it is not practical to replant.

9. Insurance Period

(a) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the acreage must be planted on or before the final planting date designated in the Special Provisions except as allowed in section 14(c).

(b) The insurance period ends at the earliest of:

(1) The calendar date for the end of the insurance period as follows:

(i) June 15 for Vidalia and any other fall planted, non-storage type onions planted in the State of Georgia;

(ii) July 15 for 1015 Super Sweets, and any other fall planted non-storage type onions in the State of Texas;

(iii) July 31 for Walla Walla Sweets, and any other fall planted non-storage type onions in the states of Oregon and Washington;

(iv) August 31 for all spring planted non-storage type onions; and

(v) October 15 for all other insurable onions; or

(2) The following event for each unit or portion of a unit:

(i) Two days after lifting or digging of non-storage type onions;

(ii) Fourteen days after lifting or digging of storage type onions; or

(iii) Removal of the onions from the unit.

10. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period.

(b) In addition to the causes of loss not insured against as listed in section 12 (Causes of Loss) of the Basic Provisions (§ 457,8), we will not insure against any loss of production due to damage that occurs or becomes evident after the end of the insurance period, including, but not limited to, damage that occurs after onions have been placed in storage.

11. Replanting Payment

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment is allowed if the crop is damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the third stage production guarantee for the acreage and we determine that it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of 7 percent of the third stage production guarantee or 18 hundredweight, multiplied by your price election, multiplied by your insured share.

(c) When onions are replanted using a practice that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

12. Duties in the Event of Damage or Loss

(a) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the representative samples of the unharvested

crop must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count that is not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

13. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide production records:

(1) For any optional units, we will combine all optional units for which acceptable production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee, by type if applicable;

(2) Multiplying each result of section 13(b)(1) by the respective price election, by type if applicable;

(3) Totaling the results in section 13(b)(2);

(4) Multiplying the total production to be counted of each type, if applicable, (see section 13(c)) by the respective price election you chose;

(5) Totaling the results of section 13(b)(4);

(6) Subtracting the result in section 13(b)(5) from the result in 13(b)(3); and

(7) Multiplying the result in section 13(b)(6) by your share.

(c) The total production (in hundredweight) to count from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee for acreage:

(A) That is abandoned;

(B) That is direct marketed to consumers if you fail to meet the requirements contained in section 12;

(C) Put to another use without our consent;

(D) That is damaged solely by uninsured causes; or

(E) For which you fail to provide production records that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested onion production (mature unharvested production may be adjusted based on the percent of damage in accordance with section 13(d));

(iv) The appraised production that exceeds the difference between the first or second stage (as applicable) and the third stage production guarantee for acreage that does not qualify for the third stage guarantee, if such acreage is not subject to section 13(c)(1)(i) and (ii); and

(v) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end if you put the acreage to another use or abandon the crop.

(vi) If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us. (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count);

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; or

(C) If due to the nature of the damage, any representative sample left would be likely to deteriorate further, and no agreement is reached, no release of the crop will be made.

(2) All harvested onion production from the insurable acreage.

(d) If the appraised percent of damage exceeds the percentage shown by type in the Special Provisions, no production will be counted for that unit or portion of a unit unless onions from that acreage are subsequently harvested and sold.

(e) The extent of any damage must be determined not later than the time onions are placed in storage if the production is stored prior to sale, or the date they are delivered to a packer, processor, or other handler if production is not stored.

14. Late Planting and Prevented Planting

(a) In lieu of provisions contained in the Basic Provisions (§ 457.8), regarding acreage initially planted after the final planting date and the applicability of a Late Planting Agreement Option, insurance will be provided for acreage planted to the insured crop during the late planting period (see section 14 (c)) and you were prevented from planting (see section 14 (d)). These coverages provide reduced production guarantees. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for late planted acreage or prevented planting acreage exceeds the liability on such acreage, coverage for those acres will not be provided, no premium will be due, and no indemnity will be paid for such acreage.

(b) If you were prevented from planting, you must provide written notice to us not later than the acreage reporting date.

(c) Late Planting

(1) For onion acreage planted during the late planting period, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (1%) per day for the 1st through the 10th day; and

(ii) Two percent (2%) per day for the 11th through the 25th day.

(2) In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of onions continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Special Provisions for the insured crop; or

(ii) Five days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period)

(1) If you were prevented from timely planting onions, you may elect:

(i) To plant onions during the late planting period. The production guarantee for such acreage will be determined in accordance with section 14(c)(1);

(ii) Not to plant this acreage to any crop except a cover crop not for harvest. You may also elect to plant the insured crop after the late planting period. In either case, the production guarantee for such acreage will be 40 percent of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 260 hundredweight per acre, your prevented planting production guarantee would be 104 hundredweight per acre (260 hundredweight multiplied by 0.40). If you elect to plant the insured crop after the late planting period, production to count for such acreage will be determined in accordance with section 13; or

(iii) Not to plant the intended crop but plant a substitute crop for harvest, in which case:

(A) No prevented planting production guarantee will be provided for such acreage if the substitute crop is planted on or before the 10th day following the final planting date for the insured crop; or

(B) A production guarantee equal to 20 percent of the production guarantee for timely planted acres will be provided for such acreage, if the substitute crop is planted after the 10th day following the final planting date for the insured crop. If you elected the Catastrophic Risk Protection Endorsement or excluded this coverage, and plant a substitute crop, no prevented planting coverage will be provided. For example, if your production guarantee for timely planted acreage is 260 hundredweight per acre, your prevented planting production guarantee would be 52 hundredweight per acre (260 hundredweight multiplied by 0.20). You may elect to exclude prevented planting coverage when a substitute crop is planted for harvest and receive a reduction in the applicable premium rate. If you wish to exclude this coverage, you must so indicate, on or before

the sales closing date, on your application or on a form approved by us. Your election to exclude this coverage will remain in effect from year to year unless you notify us in writing on our form by the applicable sales closing date for the crop year for which you wish to include this coverage. All acreage of the crop insured under this policy will be subject to this exclusion.

(2) Production guarantees for timely, late, and prevented planting acreage within a unit will be combined to determine the production guarantee for the unit. For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres were not planted but are eligible for a prevented planting production guarantee. The production guarantee for the unit will be computed as follows:

(i) For the timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(ii) For the late planted acreage, multiply the per acre production guarantee for timely planted acreage by 93 percent and multiply the result by the 50 acres planted late; and

(iii) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by:

(A) Forty percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if the acreage is left idle for the crop year, or if a cover crop is planted not for harvest. Prevented planting compensation hereunder will not be denied because the cover crop is hayed or grazed; or

(B) Twenty percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if you elect to plant a substitute crop for harvest after the 10th day following the final planting date for the insured crop (This paragraph (B) is not applicable, and prevented planting coverage is not available under these crop provisions, if you elected the Catastrophic Risk Protection Endorsement or you elected to exclude prevented planting coverage when a substitute crop is planted (see section 14(d)(1)(iii)).)

Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(3) You must have the inputs available to plant and produce the intended crop with the expectation of at least producing the production guarantee. Proof that these inputs were available may be required.

(4) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the insurance period for prevented planting coverage begins:

(i) On the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on the sales closing date for the insured crop in the county for the previous crop year, provided continuous coverage has been in effect since that date. For example: If you make application and purchase insurance for onions for the 1998 crop year, prevented planting coverage will begin on the 1998 sales closing date for onions in the county. If the onion coverage remains in effect for the 1999 crop year (is not terminated or canceled during or after the 1998 crop year) prevented planting coverage for the 1999 crop year began on the 1998 sales closing date. Cancellation for the purposes of transferring the policy to a different insurance provider when there is no lapse in coverage will not be considered terminated or canceled coverage for the purpose of the preceding sentence.

(5) The acreage to which prevented planting coverage applies will not exceed the total eligible acreage on all FSA Farm Serial Numbers in which you have a share, adjusted for any reconstitution that may have occurred on or before the sales closing date. Eligible acreage for each FSA Farm Serial Number is determined as follows:

(i) If you participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted for the crop year, the acreage eligible for prevented planting coverage will not exceed the total acreage permitted to be planted to the insured crop.

(ii) If you do not participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted, and unless we agree in writing on or before the sales closing date, eligible acreage will not exceed the greater of:

(A) The FSA base acreage for the insured crop, including acres that could be flexed from another crop, if applicable;

(B) The number of acres planted to onions on the FSA Farm Serial Number during the previous crop year; or

(C) One-hundred percent of the simple average of the number of acres planted to onions during the crop years that you certified to determine your yield.

(iii) Acreage intended to be planted under an irrigated practice will be limited to the number of acres for which you had adequate irrigation facilities prior to the insured cause of loss which prevented you from planting.

(iv) A prevented planting production guarantee will not be provided for any acreage:

(A) That does not constitute at least 20 acres or 20 percent of the acreage in the unit, whichever is less (Acreage that is less than 20 acres or 20 percent of the acreage in the unit will be presumed to have been intended to be planted to the insured crop planted in the unit, unless you can show that you had the inputs available before the final planting date to plant and produce another insured crop on the acreage);

(B) For which the actuarial table does not designate a premium rate unless a written agreement designates such premium rate;

(C) Used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture;

(D) On which another crop is prevented from being planted, if you have already received a prevented planting indemnity, guarantee or amount of insurance for the same acreage in the same crop year, unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last 4 years in which the insured crop was grown on the acreage;

(E) On which the insured crop is prevented from being planted, if any other crop is planted and fails, or is planted and harvested, hayed or grazed on the same acreage in the same crop year, (other than a cover crop as specified in section 14 (d)(2)(iii)(A), or a substitute crop allowed in section 14 (d)(2)(iii)(B)), unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last 4 years in which the insured crop was grown on the acreage;

(F) When coverage is provided under the Catastrophic Risk Protection Endorsement if you plant another crop for harvest on any acreage you were prevented from planting in the same crop year, even if you have a history of double-cropping. If you have a Catastrophic Risk Protection Endorsement and receive a prevented planting indemnity, guarantee, or amount of insurance for a crop and are prevented from planting another crop on the same acreage, you may only receive the prevented planting indemnity, guarantee, or amount of insurance for the crop on which the prevented planting indemnity, guarantee, or amount of insurance is received; or

(G) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes.

(v) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of onion acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent share. The acreage is located in a single FSA Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of onions on one optional unit and 40 acres of onions on the second

optional unit, your prevented planting eligible acreage would be reduced to zero (*i.e.,* 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero).

(6) In accordance with the provisions of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report by unit any insurable acreage that you were prevented from planting. This report must be submitted on or before the acreage reporting date. For the purpose of determining acreage eligible for a prevented planting production guarantee, the total amount of prevented planting and planted acres cannot exceed the maximum number of acres eligible for prevented planting coverage. Any acreage you report in excess of the number of acres eligible for prevented planting coverage, or that exceeds the number of eligible acres physically located in a unit, will be deleted from your acreage report.

15. Written Agreements

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 15(e);

(b) The application for written agreement must contain all terms of the contract between the insurance provider and the insured that will be in effect if the written agreement is not approved;

(c) If approved by us, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year. (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, DC, on February 6, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–3328 Filed 2–12–97; 8:45 am]

BILLING CODE 3410–FA–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–SW–21–AD]

Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) Model BO 105 C and BO 105 S Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Eurocopter Deutschland GmbH (ECD) (Eurocopter) Model BO 105 C and BO 105 S helicopters. This proposal would require modifying the main relay box by replacing the voltage regulator; modifying the cockpit overhead panel by installing two additional switches; and performing a functional test of the new voltage regulator, generators, and new switches. This proposal is prompted by an in-service report of a helicopter that experienced a generator overvoltage. The actions specified by the proposed AD are intended to prevent failure of essential electrical equipment that could result in spatial disorientation and subsequent loss of control of the helicopter.

DATES: Comments must be received by April 14, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–21–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Lance Gant, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5114, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 96–SW–21–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–21–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on Eurocopter Model BO 105 C and BO 105 S helicopters. The LBA advises that the voltage regulators installed during production cannot prevent the failure of avionic instruments caused by generator overvoltage in the aircraft power supply.

Eurocopter has issued Eurocopter Service Bulletin ASB–BO–105–80–119, dated November 7, 1994, which specifies retrofitting affected helicopters with a voltage regulator incorporating overvoltage protection. The retrofit action includes installing two switches in the cockpit overhead panel so that generators that are switched off as a result of overvoltage can be switched on again individually. Eurocopter also issued Eurocopter Alert Service Bulletin ASB–BO–105–80–118, Revision 1, dated November 29, 1995, that introduced a compliance time. The LBA classified

this service bulletin as mandatory and issued AD 95–458, dated December 5, 1995 in order to assure the continued airworthiness of these helicopters in Germany.

This helicopter model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter Model BO 105 C and BO 105 S helicopters of the same type design registered in the United States, the proposed AD would require modifying the main relay box 1VE; modifying the cockpit overhead panel, and performing a functional test of the new voltage regulator, generators, and new switches. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 100 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 14 work hours to accomplish the modification, one-half work hour to accomplish the functional test, and that the average labor rate is $60 per work hour. Required parts would cost approximately $14,317 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,518,700.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Eurocopter Deutschland GmbH (ECD): Docket No. 96–SW–21–AD.

Applicability: Model BO 105 C and BO 105 S helicopters, serial number (S/N) 161 and higher, equipped with a voltage regulator, part number (P/N) 511565–000R, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within the next 120 calendar days after the effective date of this AD, unless accomplished previously.

To prevent failure of essential electrical equipment that could result in spatial disorientation and subsequent loss of control of the helicopter, accomplish the following:

(a) Modify the main relay box and the cockpit overhead panel, and perform the functional test in accordance with the Accomplishment Instructions of Eurocopter Alert Service Bulletin (ASB) ASB–BO–105–80–119, dated November 7, 1994.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on February 5, 1997.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–3533 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 97–AEA–12]

Proposed Amendment to Class E Airspace; Meadville, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Meadville, PA. The development of a new Standard Instrument Approach Procedure (SIAP) at Port Meadville Airport based on the Global Positioning System (GPS) has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before March 25, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AEA–530, Docket No. 97–AEA–12, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours

in the Operations Branch, AEA–530, F.A.A. Eastern Region, Federal Building #11, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Operations Branch, AEA–530 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AEA–12.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposal rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Meadville, PA. A GPS RWY 25 SIAP has been developed for the Port Meadville Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, is proposed to be amended as follows:

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

* * * * *

AEA PA E5—Meadville, PA [Revised]

Port Meadville Airport, Meadville, PA
(Lat. 41°37′35″ N, long. 80°12′53″ W)

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Port Meadville Airport, excluding that portion which overlies the Greenville, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York, on February 3, 1997.

James K. Buckles,

Acting Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–3672 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 97–AEA–003]

Proposed Establishment of Class E Airspace; Mount Pleasant, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish Class E airspace at Mount Pleasant, PA. The development of a new Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), and serving Frick Community Hospital Heliport, has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations to the heliport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before March 20, 1997.

ADDRESSES: Send comments on the proposed rule in triplicate to: Manager, Operations Branch, AEA–530, Docket No. 97–AEA–003, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430. The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Operations Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Operations Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AEA–003''. The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace extending upward from 700 feet above the surface (AGL) at Mount Pleasant, PA. A GPS Point In Space Approach has been developed for Frick Community Hospital Heliport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this approach and for IFR operations to the heliport. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace extending upward from 700 feet above the surface are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, is proposed to be amended as follows:

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

* * * * *

AEA PA E5 Mount Pleasant, PA [New]

Frick Community Hospital Heliport, PA
Point In Space Coordinates
(Lat. 40°09′17″ N, long. 79°33′39″ W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Frick Community Hospital Heliport, excluding that portion that coincides with the Latrobe, PA Class E airspace area and the Connellsville, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York, on February 3, 1997.

James K. Buckles,

Acting Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–3671 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA–42–95]

RIN 1545–AU38

Definition of Reasonable Basis; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Change of location of public hearing.

SUMMARY: This document changes the location of the public hearing on proposed regulations relating to the accuracy-related penalty regulations under chapter 1 of the Internal Revenue Code.

DATES: The public hearing is being held on Tuesday, February 25, 1997, beginning at 10:00 a.m.

ADDRESSES: The public hearing originally scheduled in the IRS Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. is changed to room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing appearing in the Federal Register on Tuesday, November 12, 1996 (61 FR 58020), announced that a

public hearing relating to proposed regulations under chapter 1 of the Internal Revenue Code will be held Tuesday, February 25, 1997, beginning at 10:00 a.m. in the IRS Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC and that requests to speak and outlines of oral comments should be received by Tuesday, February 4, 1997.

The location of the public hearing has changed. The hearing is being held in room 2615 on Tuesday, February 25, 1997, beginning at 10:00 a.m. The requests to speak and outlines of oral comments should have been received by Tuesday, February 4, 1997. Because of controlled access restrictions, attenders cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

Copies of the agenda are available free of charge at the hearing.

Michael L. Slaughter,

Acting Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 97–3655 Filed 2–12–97; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–155–1–7178; TN-MEM–149–3–970; FRL–5669–4]

Approval and Promulgation of Implementation Plans; State of Tennessee and Memphis-Shelby County, Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Tennessee and by Memphis-Shelby County for the purpose of establishing a federally enforceable state operating permit (FESOP) program and a federally enforceable local operating permit (FELOP) program. In order to extend the Federal enforceability of Tennessee's FESOP and Memphis-Shelby County's FELOP to hazardous air pollutants (HAP), EPA is also proposing approval of the State's FESOP and County's FELOP regulations pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA). In the final rules section of this Federal Register, EPA is approving Tennessee's and Memphis-Shelby County's SIP revisions as a direct final rule without prior proposal because the Agency views this as noncontroversial revision amendments and anticipates no adverse comments. A detailed rationale for the approvals is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this approval action. Any parties interested in commenting on this action should do so at this time.

DATES: To be considered, comments must be received by March 17, 1997.

ADDRESSES: Written comments should be addressed to:Gracy R. Danois, Air and Radiation Technology Branch, Air, Pesticides & Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 100 Alabama Street, SW., Atlanta, Georgia 30303.

Copies of the material submitted by the State of Tennessee and by Memphis-Shelby County may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4, Air and Radiation Technology Branch, Atlanta Federal Center, 100 Alabama Street, SW., Atlanta, Georgia 30303.

Tennessee Department of Environmental Protection, Tennessee Division of Air Pollution Control, 9th Floor L&C Annex, 401 Church Street, Nashville, Tennessee, 37243–1531.

Memphis and Shelby County Health Department, 814 Jefferson Avenue, Memphis, Tennessee, 38105.

FOR FURTHER INFORMATION CONTACT: Gracy R. Danois, Air and Radiation Technology Branch, Air, Pesticides & Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 100 Alabama Street, SW., Atlanta, Georgia, 30303. The telephone number is 404/562–9119. Reference files TN–155 and TN–149–3.

SUPPLEMENTARY INFORMATION: For additional information, refer to the direct final rule which is published in the rules section of this Federal Register.

Dated: December 16, 1996.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 97–3578 Filed 2–12–97; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Parts 180, 185, and 186

[OPP–300432; FRL–5381–9]

RIN 2070–AC18

Propargite; Proposed Revocation of Certain Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA is proposing to revoke tolerances for residues of the pesticide Propargite in or on the following commodities: apples, dried apple pomace, apricots, cranberries, figs, dried figs, peaches, pears, plums (fresh prunes), strawberries, and succulent beans. EPA is proposing these revocations because the uses associated with the tolerances have been voluntarily deleted from propargite labels by Uniroyal Chemical Company. Uniroyal deleted the uses to address risk concerns raised by EPA.

DATES: Written comments should be submitted to EPA by April 14, 1997.

ADDRESSES: By mail, submit comments to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, bring comments to Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–300432]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VII. of this document.

FOR FURTHER INFORMATION CONTACT: By mail: Jeff Morris, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location, telephone number and e-mail address: Special Review Branch, Crystal Station #1, 3rd floor, 2800 Crystal Drive, Arlington, VA 22202, telephone: (703) 308–8029; e-mail: morris.jeffrey@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Propargite (trade names Omite and Comite) is a pesticide that was registered in 1969 for the control of mites on a number of agricultural commodities and ornamental plants. EPA classifies propargite as a B_2 (probable) human carcinogen.

II. Legal Authorization

The Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 et seq., as amended by the Food Quality Protection Act of 1996 (FQPA), Pub. L. 104–170, authorizes the establishment of tolerances (maximum residue levels), exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods pursuant to section 408 [21 U.S.C. 346(a), as amended]. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA, and hence may not legally be moved in interstate commerce [21 U.S.C. 342]. For a pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136 et seq.).

III. Regulatory Background

EPA published a Registration Standard for propargite in 1986, and FIFRA reregistration is ongoing. Through the reregistration process, in 1992 EPA received from Uniroyal Chemical Company, the sole propargite registrant in the United States, a voluntarily submitted market basket survey examining residue levels in selected commodities in a nation-wide cross section of grocery stores. The survey attempted to better reflect propargite residues in these commodities as purchased by consumers. Uniroyal's market basket survey, as well as other sampling data used by EPA, indicated propargite residues on certain foods such as apples and peaches that were far below tolerance levels but nevertheless resulted in dietary risks of concern for those foods. Based on this and other information, EPA conducted an intensive dietary risk assessment and concluded that long-term exposure to propargite posed an unreasonable dietary cancer risk to persons who consume propargite-treated foods.

A. Use Deletions

EPA discussed its risk findings with Uniroyal, and Uniroyal responded in an April 5, 1996 letter by requesting, among other things, voluntary deletion of the following uses from all applicable propargite labels: apples, apricots, cranberries, figs, green beans, lima beans, peaches, pears, plums (including plums grown for prune production), and strawberries. EPA agreed to this request, and the deletions were announced in a Federal Register notice dated May 3, 1996 (61 FR 19936) (FRL–5367–4). EPA received comments both supporting and opposing the use deletions; those comments were considered prior to the requested use deletions taking effect on August 1, 1996. The comments are available in the public record under docket number OPP–64029. As part of its use-deletion agreement with EPA, Uniroyal also agreed not to challenge revocation of tolerances for any of the deleted uses.

B. Previous Actions

EPA previously proposed to revoke the apple and fig tolerances listed under 40 CFR 180.259, because apples and figs had or needed food additive regulations (FAR) that were prohibited by the Delaney clause. Under EPA's coordination policy, EPA proposed to revoke the tolerances for apples and figs (61 FR 8174, March 1, 1996) (FRL–5351–6). On March 22, 1996, EPA issued a final rule, subject to objections, revoking the FARs for dried figs and tea, also on grounds that the FARs violated the Delaney clause (61 FR 11994)(FRL–5357–7). The propargite registrant filed objections to the ''induces cancer'' ground for the final revocation and requested a hearing. Those revocations were stayed. In the same notice, EPA revoked the FAR for raisins because it was not needed. However, the August 3, 1996 enactment of the FQPA removed pesticides from coverage under FFDCA section 409 and the Delaney clause. Therefore, the proposed and final revocations based on Delaney clause grounds have no basis in law. Accordingly, EPA published a notice in the Federal Register (61 FR 50684, September 26, 1996)(FRL–5397–4) withdrawing the proposed and final revocations for apples and figs that were premised on the Delaney clause.

The dried apple pomace tolerance listed under 40 CFR 186.5000 was proposed for revocation on September 21, 1995 (60 FR 49142)(FRL–4977–3) on the ground that dried apple pomace is no longer listed on Table 1 of Series 860--Residue Chemistry Test Guidelines (formerly Table II of Subdivision O of EPA's Pesticide Assessment Guidelines), and therefore a tolerance is not needed.

IV. Current Proposal

This notice proposes to revoke the following tolerances established under sections 408 and 409 of FFDCA (as a matter of law, these tolerances are now all considered to be under section 408) for residues of the pesticide propargite (2-(*p*-tert-butylphenoxy) cyclohexyl 2-propynyl sulfite) in or on the following commodities listed under 40 CFR 180.259, 185.5000, and 186.5000:

Under § 180.259: apples, 3 parts per million (ppm); apricots, 7 ppm; beans, succulent, 20 ppm; cranberries, 10 ppm; figs, 3 ppm; peaches, 7 ppm; pears, 3 ppm; plums (fresh prunes), 7 ppm; strawberries, 7 ppm.

Under § 185.5000: figs, dried, 9 ppm.

Under § 186.5000: apple pomace, dried, 80 ppm.

EPA is proposing these revocations because the registrant requested that the uses associated with the above tolerances be formally deleted from all of its propargite registrations, and those uses have been deleted. End-use propargite labels no longer list as registered uses the commodities associated with these tolerances. It is EPA's general practice to revoke tolerances where the associated pesticide use has been deleted from all FIFRA labels. See 40 CFR 180.32(b).

An additional ground for revoking the dried apple pomace tolerance is that dried apple pomace is no longer listed on Table 1 of Series 860--Residue Chemistry Test Guidelines, because it is no longer considered to be a significant livestock feed item and therefore does not require a feed additive regulation. Documentation explaining EPA's conclusions on what animal feeds are significant has been included in the public record.

Propargite degrades in soil with a half-life of less than 60 days. Based on this lack of persistence, there is no expectation of unavoidable residues.

Codex maximum residue limits exist for propargite. Propargite is a candidate for Codex re-evaluation, but review has not yet been scheduled. EPA requests comments on whether residues are present in or on imported commodities.

V. Effective Dates of Proposed Tolerance Revocations

Prior to the amendment of the FFDCA, it was generally the practice of

EPA in similar instances to establish an effective date for each tolerance revocation that takes into consideration the time needed for legally treated food to pass entirely through the channels of trade. That is no longer necessary because under section 408(l)(5), food lawfully treated will not be rendered adulterated despite the lack of a tolerance so long as the residue on the food complies with the tolerance in place at the time of treatment.

At this time, EPA estimates that legally treated commodities should clear the channels of trade within 3 years of issuance of a final order revoking these tolerances. This is based on a preliminary EPA estimate that food processors attempt to deliver their products to grocery stores within 2 years of production, and that the products in general remain on store shelves for less than 1 year. EPA also estimates that no fresh market commodities are expected to be in the channels of trade 3 years after treatment with propargite. However, because it is important to FDA as the agency that monitors residues in food to have accurate information regarding the length of time required for each affected commodity to move through commerce, EPA specifically requests comment from growers, processors, and other interested parties on this matter. The procedure for filing comments is described below in unit VI of this preamble.

VI. Public Comment Procedures

EPA invites interested persons to submit written comments, information, or data in response to this proposed rule. After consideration of comments, EPA will issue a final rule. Such rule will be subject to objections. Failure to file an objection within the appointed period will constitute waiver of the right to raise in future proceedings issues resolved in the final rule.

Comments must be submitted by April 14, 1997, and must bear a notation indicating the docket number [OPP–300432]. Three copies of the comments should be submitted to either location listed under **ADDRESSES** at the beginning of this notice.

Information submitted as a comment concerning this notice may be claimed confidential by marking any or all of that information as CBI. EPA will not disclose information so marked, except in accordance with procedures set forth in 40 CFR part 2. A second copy of such comments, with the CBI deleted, also must be submitted for inclusion in the public record. EPA may publicly disclose without prior notice information not marked confidential.

VII. Public Record

A record has been established for this notice under docket number [OPP–300432] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, that does not include any information claimed as CBI is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record, which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this notice.

VIII. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, since this action does not impose any information collection requirements subject to approval under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., it is not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special considerations as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Administrator has determined that there will be no economic impacts from revocation of the tolerances in this notice, because the registrant has cancelled the uses. Despite the revocation, commodities legally treated under FIFRA and consistent with the tolerance in place at time of treatment are allowed by the statute to clear the channels of trade. Therefore, EPA certifies that this action will not have a significant impact on a substantial number of small entities.

List of Subjects

40 CFR Part 180

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

40 CFR Part 185

Food additives, Pesticide and pest.

40 CFR Part 186

Animal feeds, Pesticide and pest.

Dated: January 31, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR parts 180, 185, and 186 be amended to read as follows:

PART 180—[Amended]

1. In part 180:

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

Authority: 21 U.S.C. 346a and 371.

§ 180.259 [Amended]

b. In § 180.259, the table in paragraph (a) is amended by removing the entries for apples; apricots; beans, succulent; cranberries; figs; peaches; pears; plums (fresh prunes); and strawberries.

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

§ 185.5000 [Amended]

b. Section 185.5000 is amended by removing the entry for ''Figs, dried.''

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

§ 186.5000 [Amended]

b. Section 186.5000 is amended by removing the entry for ''Apple pomace, dried.''

[FR Doc. 97–3518 Filed 2–12–97; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 383 and 391

[FHWA Docket No. MC–93–23]

RIN 2125–AD20

Commercial Driver Physical Qualifications as Part of the Commercial Driver's License Process

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of meeting of negotiated rulemaking advisory committee.

SUMMARY: The FHWA announces the meeting date of an advisory committee (the Committee) established under the Federal Advisory Committee Act and the Negotiated Rulemaking Act to consider the relevant issues and attempt to reach a consensus in developing regulations governing the proposed merger of the State-administered commercial driver's license (CDL) procedures of 49 CFR Part 383 and the driver physical qualifications requirements of 49 CFR Part 391. The Committee is composed of persons who represent the interests that would be substantially affected by the rule.

The FHWA believes that public participation is critical to the success of this proceeding. Participation at meetings is not limited to Committee members. Negotiation sessions are open to the public, so interested parties may observe the negotiations and communicate their views in the appropriate time and manner to Committee members.

For a listing of Committee members, see the notice published on July 23, 1996, 61 FR 38133. Please note that the United Motorcoach Association and the American Bus Association will serve as full members of the Committee. For additional background information on this negotiated rulemaking, see the notice published on April 29, 1996, at 61 FR 18713.

DATES: The sixth meeting of the advisory committee will begin at 9:30 a.m. on March 24–25, 1997.

ADDRESSES: The sixth meeting of the advisory committee will be held at the Department of Transportation, Nassif Building, Room 3200, 400 7th Street, SW, Washington, D.C. Subsequent meetings will be held at locations to be announced.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Doggett, Office of Motor Carrier Research and Standards, (202) 366–4001, or the Office of Chief Counsel, (202) 366–0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except Federal holidays.

Authority: [5 U.S.C. 561–570; 5 U.S.C. App. 2 sections 1–15]

Issued on: February 7, 1997.

George L. Reagle,

Associate Administrator for Motor Carriers.

[FR Doc. 97–3665 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–22–P

Notices

Federal Register
Vol. 62, No. 30
Thursday, February 13, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 7, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 *and* to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

- Animal and Plant Health Inspection Service

Title: Karnal Bunt.
OMB Control Number: 0579–0121.
Summary: The regulations for Karnal Bunt require the use of limited permits, certificates, compliance agreements, and other documents that are needed to inform the public of the requirements.
Need and Use of the Information: The information is used to authorize the interstate movement of regulated articles and help prevent the spread of Karnal Bunt.
Description of Respondents: Farms; Individuals or households; State, Local or Tribal Government.
Number of Respondents: 4,327.
Frequency of Responses: Reporting: On occasion
Total Burden Hours: 7,115.

- Animal and Plant Inspection Service

Title: Foreign Quarantine Notices.
OMB Control Number: 0579–0049.
Summary: Information collected includes an application for permit to import a plant or plant product. Foreign countries must certify that products to be imported are free of disease and pests.
Need and Use of the Information: The information is used to enforce the Plant Quarantine Act and the Federal Plant Pest Act. The information helps prevent the spread of plant disease and insect pests.
Description of Respondents: Business or other for-profit; Individuals or households; Not-for-profit institutions; Farms; State, Local or Tribal Government.
Number of Respondents: 99,519.
Frequency of Responses: Reporting: On occasion.
Total Burden Hours: 106.862.

- Forest Service

Title: Bighorn National Forest Scenic Byways User Survey.
OMB Control Number: 0596—New.
Summary: The purpose of this survey is to insure that scenic byways users' input is considered in the development of the scenic byways corridor management plans. Respondents include travelers, users and business interests that depend upon the byways.
Need and Use of the Information: The data will be used to assist public lands and highway managers; aid tourism and marketing efforts; and, insure enjoyment by the users.
Description of Respondents: Individuals or households; Business of other for-profit.
Number of Respondents: 150.
Frequency of Responses: Reporting: One Time Only.
Total Burden Hours: 50.
Emergency processing of this submission has been requested by February 18, 1997.

Larry Roberson,
Deputy Departmental Clearance Officer.

[FR Doc. 97–3568 Filed 2–12–97; 8:45 am]
BILLING CODE 3410–01–M

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Forest Service, intends to grant to Sonic Industries, Inc. of Hatboro, Pennsylvania, an exclusive license to U.S. Patent 5,396,799 issued March 14, 1995, ''Method and Apparatus for *In Situ* Evaluation of Wooden Members''. Notice of Availability was published in the Federal Register on September 16, 1992.

DATES: Comments must be received on or before April 14, 1997.

ADDRESSES: Send comments to: Janet I. Stockhausen, USDA Forest Service, One Gifford Pinchot Drive, Madison, Wisconsin, 53705–2398.

FOR FURTHER INFORMATION CONTACT: Janet I. Stockhausen of the USDA Forest Service at the Madison address given above; telephone: 608–231–9502.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the Untied States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Sonic Industries, Inc. has submitted a complete and sufficient application for a license. The prospective license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective license may

be granted unless, within sixty days from the date of this published Notice, the Forest Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 97–3569 Filed 2–12–97; 8:45 am]

BILLING CODE 3410–13–M

Forest Service

Information Collection for Recreation, Scenery and Tourism Management

AGENCY: Forest Service, USDA.

ACTION: Notice of intent; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to establish a new information collection. The new collection is necessary to gather information about visitor preferences and expectations concerning recreational facilities, such as campgrounds and parking areas; scenery management, including visitors' favorite scenic views; and highway management, such as whether highway maintenance activities are compatible with the scenic objectives. The information collected will be used in developing Scenic Byways Corridor Management Plans for the Bighorn National Forest.

DATES: Comments must be received in writing on or before April 14, 1997.

ADDRESSES: All comments should be addressed to: Bernie Bornong, Forester, Bighorn National Forest, 1969 S. Sheridan Avenue, Sheridan, WY 82801.

FOR FURTHER INFORMATION CONTACT: Bernie Bornong, Bighorn National Forest, at (307) 672–0751.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

The following describes the information collection:

Title: Bighorn National Forest Scenic Byways Summer User Survey.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: The following describes a new collection requirement and has not received approval by the Office of Management and Budget.

Abstract: The Bighorn National Forest, located in north central Wyoming, has contracted with EDAW, Inc. to write a Scenic Byways Corridor Management Plan (CMP) for three Scenic Byways on the Bighorn National Forest located on U.S. Highways 14, 14A, and 16. As part of this project, EDAW, Inc. will conduct a survey of visitors using the Scenic Byways during the summer of 1997 to ensure that the needs, expectations, and preferences of visitors are addressed in the Scenic Byways Corridor Management Plan.

The Forest Service Bighorn National Forest, Wyoming Department of Transportation (WYDOT), local Chambers of Commerce, and numerous small businesses, including lodges and restaurants, will use this information to more effectively manage the Scenic Byways to ensure that recreational opportunities and scenic views meet the expectations of visitors and to ensure that management of the highways within the Scenic Byways meets WYDOT standards while enhancing visitor experiences.

The Forest Service, for example, will use the information to incorporate visitor preferences into the management of recreational facilities, such as campgrounds. This could include the location of campgrounds, as well as the condition of the campgrounds. The data will also help the Forest Service incorporate scenic preferences, such as wildlife viewing areas, when planning projects.

The Wyoming Department of Transportation (WYDOT) will use the information to plan for and assess the public's desires concerning the dual purposes of providing safe and efficient transportation within the Scenic Byways, while at the same time maintaining the scenic beauty of the highway corridors. When designing roads, WYDOT will consider visitor preferences for such matters as type and color of guardrails to install, use of retaining walls in specific locations, or the use of snow fences instead of plowing snow. WYDOT also will include visitor needs, expectations, and preferences when planning and conducting road maintenance.

Local communities and tourism and recreation industries will use the information to design marketing strategies to promote tourism and increase visitation within and along the Scenic Byways.

To facilitate the collection of information, personnel from EDAW, Inc. will write the survey, conduct the interviews, and analyze the survey results, under the contract supervision of the Bighorn National Forest. The interviewers will randomly select visitors using the Scenic Byways on the Bighorn National Forest. This is a voluntary survey, and the first question asked will be whether or not the visitor wishes to participate. The survey is a 20-minute interview, with the interviewer recording the visitor's responses on the survey instrument. The interviewers will station themselves at areas along the Scenic Byways extensively used by visitors, such as parking areas, visitor centers, and campgrounds.

The interviewers will ask visitors, who choose to participate in the survey, to evaluate the current status of, and suggest possible improvements to, the recreational facilities along the Scenic Byways. These recreational facilities include rest areas, parking areas, visitor information centers, camping and picnicking facilities, and lodging and restaurant facilities operating under the authorization of and with special use permits issued by the Forest Service.

Interviewers will ask visitors their expectations concerning the highway infrastructure and if maintaining the highway infrastructure or maintaining scenic beauty is more important to them.

Interviewers also will show visitors a series of photographs of the Scenic Byways and will ask their perceptions and preferences of various landscapes and their visual sensitivity to various multiple uses depicted in the photographs. Visitors also will be asked to point out the areas they find particularly attractive, so that those areas can be managed to protect their scenic importance.

Additionally, EDAW, Inc. will develop a profile of Bighorn National Forest Scenic Byways visitors by asking participants their State of residence; the number of times per year they visit the Bighorn National Forest Scenic Byways; the seasons of use; and the types of recreational activities they enjoy along the Scenic Byways.

Data gathered in this information collection is not available from other sources.

Estimate of Burden: 20 minutes.

Type of Respondents: Individual users of the Scenic Byways on the Bighorn National Forest and small businesses located along the byways, such as the lodges and restaurants.

Estimated Number of Respondents: 300.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 100 hours.

The agency invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of this agency's

estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

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

Dated: February 10, 1997.

David G. Unger,

Associate Chief.

[FR Doc. 97–3626 Filed 2–12–97; 8:45 am]

BILLING CODE 3410–11–M

Blue Mountains Natural Resources Institute, Board of Directors, Pacific Northwest Research Station, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Blue Mountains Natural Resources Institute (BMNRI) Board of Directors will meet on March 11, 1997, at Oregon Department of Transportation Conference Room, 3012 Island Avenue, La Grande, Oregon. The meeting will begin at 9:00 a.m. and continue until 4:00 p.m. Agenda items to be covered will include: (1) Program status; (2) research results of specific projects; (3) outreach activities; (4) identification of issues of interest; (5) budget and plan of work; (6) report on Initiatives; (7) presentation on Oregon Initiatives in natural resources; (8) public comments. All BMNRI Board Meetings are open to the public. Interested citizens are encouraged to attend. Members of the public who wish to make a brief oral presentation at the meeting should contact Larry Hartmann, BMNRI, 1401 Gekeler Lane, La Grande, Oregon 97850, 541–962–6537, no later than March 7, 1997, to have time reserved on the agenda.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Larry Hartmann, Manager, BMNRI, 1401 Gekeler Lane, La Grande, Oregon 97850, 541–962–6537.

Dated: February 3, 1997.

Larry Hartmann,

Manager.

[FR Doc. 97–3590 Filed 2–12–97; 8:45 am]

BILLING CODE 3410–11–M

Rural Business-Cooperative Service

Inviting Preapplications for Technical Assistance for Rural Transportation Systems

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS), an Agency within the Rural Development mission area, announces the availability of $500,000 in competing Rural Business Enterprise Grant (RBEG) funds for fiscal year (FY) 1997 specifically for technical assistance for rural transportation systems. The funds are designed to assist private nonprofit corporations serving rural areas in providing technical assistance, for planning and developing transportation systems, and for training for rural communities needing improved passenger transportation systems or facilities in order to promote economic development through a link between transportation and economic development initiatives. The RBEG program is administered on behalf of RBS at the State level by the Rural Development State Offices.

DATES: The deadline for receipt of a preapplication in the Rural Development State Office is May 1, 1997. Preapplications received after that date will not be considered for FY 1997 funding.

ADDRESSES: Entities wishing to apply for assistance should contact the Rural Development State Offices to receive further information and copies of the preapplication package. A list of State Offices follows:

State Director, Rural Development, Sterling Center Suite 601, 4121 Carmichael Road, Montgomery, AL 36106–3683, (332) 279–3400

State Director, Rural Development, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 745–2176

State Director, Rural Development, 3003 North Central Avenue, Suite 900, Phoenix, AZ 85012, (602) 280–8700

State Director, Rural Development, 700 West Capitol, P. O. Box 2778, Little Rock, AR 72203, (501) 324–6281

State Director, Rural Development, 194 West Main Street, Suite F, Woodland, CA 95695–2915, (916) 668–2000

State Director, Rural Development, 655 Parfet Street, Room E 100, Lakewood, CO 80215, (303) 236–2801

State Director, Rural Development, (Delaware and Maryland), 5201 South Dupont Highway, P. O. Box 400, Camden, DE 19934–9998, (302) 697–4300

State Director, Rural Development, 4440 NW 25th Place, P. O. Box 147010, Gainesville, FL 32614–7010, (352) 338–3400

State Director, Rural Development, Stephens Federal Building, 355 E Hancock Avenue, Athens, GA 30601, (706) 546–2162

State Director, Rural Development, Federal Building, Room 311, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–3000

State Director, Rural Development, 3232 Elder Street, Boise, ID 83705, (208) 378–5600

State Director, Rural Development, Illini Plaza, Suite 103, 1817 South Neil Street, Champaign, IL 61820, (217) 398–5235

State Director, Rural Development, 5975 Lakeside Blvd, Indianapolis, IN 46278, (317) 290–3100

State Director, Rural Development, Federal Building, Rm 873, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4663

State Director, Rural Development, 1200 SW Executive Drive, P.O. Box 4653, Topeka, KS 66604, (913) 271–2700

State Director, Rural Development, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (606) 224–7300

State Director, Rural Development, 3727 Government Street, Alexandria, LA 71302, (318) 473–7920

State Director, Rural Development, 444 Stillwater Avenue, Suite 2, P.O. Box 405, Bangor, ME 04402–0405, (207) 990–9106

State Director, Rural Development, (Massachusetts, Rhode Island, Connecticut), 451 West Street, Amherst, MA 01002, (413) 253–4300

State Director, Rural Development, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 337–6635

State Director, Rural Development, 410 Agri Bank Building, 375 Jackson Street, St Paul, MN 55101, (612) 290–3842

State Director, Rural Development, Federal Building, Suite 831, 100 W Capitol Street, Jackson, MS 39269, (601) 965–4316

State Director, Rural Development, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0976

State Director, Rural Development, 900 Technology Blvd., Unit 1, Suite B, P.O. Box 850, Bozeman, MT 59715, (406) 585–2580

State Director, Rural Development, Federal Building, Room 308, 100 Centennial Mall N, Lincoln, NE 68508, (402) 437–5551

State Director, Rural Development, 1390 South Curry Street, Carson City, NV 89703–5405, (702) 887–1222

State Director, Rural Development, Tarnsfield Plaza, Suite 22, 790 Woodlane Road, Mt Holly, NJ 08060, (609) 265–3600
State Director, Rural Development, 6200 Jefferson Street, NE, Room 255, Albuquerque, NM 87109, (505) 761–4950
State Director, Rural Development, Galleries of Syracuse, 441 S Salina Street, Syracuse, NY 13202, (315) 477–6400
State Director, Rural Development, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2000
State Director, Rural Development, Federal Building, Room 208, 220 East Rosser, P.O. Box 1737, Bismarck, ND 58502, (701) 250–4781
State Director, Rural Development, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215, (614) 469–5600
State Director, Rural Development, 100 USDA, Suite 108, Stillwater, OK 74074, (405) 742–1000
State Director, Rural Development, 101 SW Main Street, Suite 1410, Portland, OR 97204–2333, (503) 414–3300
State Director, Rural Development, 1 Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 782–4476
State Director, Rural Development, New San Juan Office Building, Room 501, 159 Carlos E Chardon Street, Hato Rey, PR 00918–5481, (809) 766–5095
State Director, Rural Development, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 765–5163
State Director, Rural Development, Federal Building, Room 308, 200 4th Street, SW, Huron, SD 57350, (605) 352–1100
State Director, Rural Development, 3322 West End Avenue, Suite 300, Nashville, TN 37203–1071, (615) 783–1300
State Director, Rural Development, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (817) 298–1301
State Director, Rural Development, Federal Building, Room 5438, 125 South State Street, Salt Lake City, UT 84138, (801) 524–4063
State Director, Rural Development, (Vermont, New Hampshire, Virgin Islands), City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6002
State Director, Rural Development, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1550
State Director, Rural Development, Federal Building, Room 319, 301 Yakima Street, P.O. Box 2427, Wenatchee, WA 98807, (509) 664–0240
State Director, Rural Development, 75 High Street, P.O. Box 678, Morgantown, WV 26505, (304) 291–4791
State Director, Rural Development, 4949 Kirschling Court, Stevens Point, WI 54481, (717) 345–7600
State Director Rural Development, 100 East B, Federal Building, Rm 1005, P.O. Box 820, Casper, WY 82602, (307) 261–6300

FOR FURTHER INFORMATION CONTACT: Carole S. Boyko, Rural Development, Specialist, Specialty Lenders Division, Room 5404, South Agriculture Building, 1400, Independence Avenue, SW., Washington, D.C. 20250–0700. Telephone: (202)720–1400.

SUPPLEMENTARY INFORMATION: Refer to section 310B(c) (7 U.S.C. 1932) of the, Consolidated Farm and Rural Development Act, as amended, and FmHA Instruction 1942–G for the information collection requirements of the RBEG program. The RBEG program was previously administered by the former Rural Development Administration. Under the reorganization of the Department of Agriculture, the responsibility for administering this program was transferred to RBS. Part 1942–G of title 7 of the Code of Federal Regulations provides details on what information must be contained in the preapplication package.

The RBEG program is authorized by section 310B of the Consolidated Farm and Rural, Development Act (7 U.S.C. 1932), as amended. The primary objective of the program is to improve the economic conditions of rural areas. The RBEG program will achieve this objective by assisting private nonprofit corporations serving rural areas in providing technical assistance for planning and developing transportation systems and for training for rural communities needing improved passenger transportation systems or facilities in order to promote economic development through a link between transportation and economic development initiatives.

RBEG grants are competitive and will be awarded to nonprofit institutions based on specific selection criteria, as required by legislation and set forth in 7 CFR part 1942, subpart G. Project selection will be given to those projects that contribute the most to the improvement of economic conditions in rural areas. Preapplications will be tentatively scored by the State Offices and submitted to the National Office for review, final scoring, and selection.

Fiscal Year 1997 Preapplication Submission

Qualified applicants should begin the preapplication process as soon as possible and have their preapplication submitted to the State Offices no later than May 1, 1997. Each preapplication received in a State Office will be reviewed to determine if the preapplication is consistent with the eligible purposes outlined in 7 CFR part 1942, subpart G. Each criteria outlined in 7 CFR part, 1942, subpart G must be addressed in the preapplication. Failure to address any of the criteria will result in a zero-point score for that criteria and can impact preapplication competence. Copies of 7 CFR part 1942, subpart G, will be provided to any interested applicant by making a request to the Rural Development State Office or the RBS National Office. All projects to receive technical assistance through these grant funds are to be identified when the preapplication is submitted to the State Office. Multiple project preapplications must identify each individual project, indicate the amount of funding requested for each individual project, and address the criteria as stated above for each individual project. Multiple project applicants should indicate if the applicant wishes the projects scored individually or as an aggregate average.

All eligible preapplications, along with tentative scoring sheets and the State Director's recommendation, will be referred to the National Office no later than June 2, 1997, for final scoring and selection for award.

The National Office will score preapplications based on the grant selection criteria and weights set forth in 7 CFR part 1942, subpart G, and will select awardees subject to the availability of funds and the awardee's satisfactory submission of a formal application and related materials in accordance with subpart G. It is anticipated that grant awardees will be selected by July 28, 1997. All applicants will be notified by the RBS of the Agency decision on awards, and non-selectees will be provided appeal rights in accordance with 7 CFR part 11. The information collection requirements within this Notice are covered under OMB No. 0575–0132 and 7 CFR part 1942, subpart G.

Dated: February 3, 1997.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 97–3566 Filed 2–12–97; 8:45 am]

BILLING CODE 3410–XY–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–805]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Extruded Rubber Thread From Malaysia

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

SUMMARY: In response to a request by petitioner and four producers/exporters of the subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on extruded rubber thread from Malaysia. The review covers five manufacturers/exporters. The period of review (the POR) is October 1, 1993, through September 30, 1994.

We have preliminarily determined that sales have been made below foreign market value (FMV) by all of the companies subject to this review. If these preliminary results are adopted in the final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: February 13, 1997.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Robert Blankenbaker, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4740 or (202) 482–0989, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 1992, the Department published in the Federal Register (57 FR 46150) the antidumping duty order on extruded rubber thread from Malaysia. In accordance with 19 CFR 353.22(a)(2), in October 1994 the petitioner and the following producers and exporters of extruded rubber thread requested an administrative review of the antidumping order covering the period October 1, 1993, through September 30, 1994: Heveafil Sdn. Bhd. (''Heveafil''), Rubberflex Sdn. Bhd. (''Rubberflex''), Filati Lastex Elastfibre (Malaysia) (''Filati''), Rubfil Sdn. Bhd. (''Rubfil'') and Rubber Thread (''Rubber Thread'). On November 14, 1994, the Department published its notice of initiation of an administrative review of the antidumping duty order on extruded rubber thread from Malaysia for Heveafil, Filati, Rubberflex, Rubfil and Rubber Thread (59 FR 56459). Rubber Thread reported that it made no shipments of the subject merchandise during the POR.

Scope of the Review

The product covered by this review is extruded rubber thread. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. Extruded rubber thread is currently classified under subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and Customs purposes. Our written description of the scope of this review is dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. We are conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Such or Similar Merchandise

In determining similar merchandise comparisons, pursuant to section 771(16) of the Act, we considered the following physical characteristics, which appear in order of importance: (1) quality (*i.e.*, first vs. second); (2) size; (3) finish; (4) color; (5) special qualities; (6) uniformity; (7) elongation; (8) tensile strength; and (9) modulus. With the exception of quality, these characteristics are in accordance with matching criteria set forth in the January 26, 1994, memorandum to the file on the record of this review. Regarding quality, we have added this characteristic in order to address respondents' concerns regarding differences in value related to significant differences in quality.

Regarding color, respondents assigned separate codes to each shade of color. We reassigned color codes to sales of subject merchandise, in accordance with the instructions contained in the questionnaire. This resulted in our treating all shades of a given color as equally similar to each other instead of treating a specific shade as most similar to another specific shade.

Fair Value Comparisons

To determine whether sales of extruded rubber thread from Malaysia to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the ''United States Price'' and ''Foreign Market Value'' sections of this notice.

United States Price

We based USP on purchase price (PP), in accordance with section 772(b) of the Act, when the subject merchandise was sold to unrelated purchasers in the United States prior to importation and when the exporter's sales price (ESP) methodology of section 772(c) of the Act was not otherwise indicated. In addition, where sales to the first unrelated purchaser took place after importation into the United States, we based USP on ESP, in accordance with section 772(c) of the Act.

We based purchase price on packed, CIF prices to the first unrelated purchaser in the United States. We made deductions from USP, where appropriate, for rebates, foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. customs duty, harbor maintenance and merchandise processing fees, and U.S. brokerage and handling expenses, in accordance with section 772(d)(2) of the Act.

For sales made from the inventory of the U.S. branch office, we based USP on ESP, in accordance with section 772(c) of the Act. We calculated ESP based on packed, delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for rebates. We also made deductions for foreign inland freight, foreign brokerage, ocean freight, marine insurance, U.S. inland freight, U.S. brokerage, entry fees, harbor maintenance and processing fees, and inspection charges. In accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for credit and indirect selling expenses.

Best Information Available

Section 776(b) of the Act requires the Department to use the best information available (BIA) if it is unable to verify the accuracy of the information submitted. In deciding what to use as BIA, the Department's regulations provide that the Department may take into account whether a party refuses to provide requested information. *See* 19

CFR 353.37(b). Thus, the Department may determine, on a case-by-case basis, what is the BIA.

In cases where we have determined to use total BIA, we apply a two tier methodology of BIA depending on whether the companies attempted to or refused to cooperate in these reviews. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders,* 60 FR 10900 (February 28, 1995). When a company refused to provide the information requested in the form required, or otherwise significantly impeded the Department's proceedings, we assigned that company first-tier BIA, which is the higher of: (1) the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less-than-fair-value (LTFV) investigation or a prior administrative review; or (2) the highest calculated rate found in this review for any firm for the same class or kind of merchandise in the same country of origin.

When a company has substantially cooperated with our requests for information including, in some cases, verification, but failed to provide complete or accurate information, we assigned that company second-tier BIA, which is the higher of: (1) The highest rate (including the ''all others'' rate) ever applicable to the firm for the same class or kind of merchandise from either the LTFV investigation or a prior administrative review or, if the firm has never before been investigated or reviewed, the ''all others'' rate from the LTFV investigation; or (2) the highest calculated rate for any firm in this review for the class or kind of merchandise from the same country of origin. *See Allied-Signal Aerospace Co.* v. *United States,* 996 F.2d 1185 (Fed. Cir. 1993).

We applied second-tier BIA to Rubberflex. While Rubberflex cooperated throughout the administrative review by submitting questionnaire responses and with verification, we found that responses provided by Rubberflex could not be verified and thus resorted to BIA pursuant to section 776(b) of the Act. The inaccuracies which render the response unusable for purposes of margin calculations include: Rubberflex failed to reconcile its original questionnaire response with its current financial statements and current trial balance; Rubberflex did not report all PP sales that caused entries during the POR; due to inconsistencies in Rubberflex's date of sale methodology, Rubberflex failed to clarify which sales applied to this review period pursuant to the Department's methodology; Rubberflex provided revised questionnaire responses at verification for home market indirect selling expenses, direct labor expense and packing labor, variable overhead, and cost of goods sold; for these same expenses Rubberflex could not demonstrate how the original response was supported by documentation, nor could it document the difference between the original and revised submission for these items; Rubberflex failed to have all the appropriate documentation required to trace the pre-selected sales to its books and records, and; Rubberflex failed to report a trade-bill financing expense incurred on U.S. sales as an adjustment to U.S. price. Furthermore, it failed to provide original source documentation for its reported managerial labor expenses. The deficiencies are outlined in detail in the public version of the memorandum on Rubberflex's Failed Verification from Holly Kuga to Jeffrey P. Bialos, dated November 26, 1996.

In this case, the BIA rate is the highest calculated rate for any firm in this review for the class or kind of merchandise from the same country of origin. Thus, as a result of our review, we preliminarily determine the dumping margin for Rubberflex to be 29.76 percent.

Foreign Market Value

In order to determine whether the home market was viable during the POR (*i.e.,* whether there were sufficient sales of extruded rubber thread in the home market to serve as a viable basis for calculating FMV), we compared the volume of each of the respondent's home market sales to the volume of its third country sales, in accordance with section 773(a)(1)(B) of the Act and 19 CFR 353.48. Based on this comparison, we determined that Heveafil and Rubfil did not have a viable home market during the POR. Consequently, we based FMV on third country sales for these companies.

In accordance with 19 CFR 353.49(b), we selected the appropriate third country markets for Heveafil and Rubfil based on the following criteria: Similarity of merchandise sold in the third country to the merchandise exported to the United States, the volume of sales to the third country, and the similarity of market organization between the third country and U.S. markets. Specifically, we chose, as the appropriate third country markets, Italy for Heveafil and Hong Kong for Rubfil.

Cost of Production

Because the Department disregarded third country sales below the COP for both Heveafil and Rubberflex in the original investigation (*see Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Malaysia,* 57 FR 38465 (August 25, 1992)) in accordance with our standard practice, there were reasonable grounds to believe or suspect that both Heveafil and Rubberflex had made third country sales at prices below their COP in this review (*see Notice of Final Results of Antidumping Duty Administrative: Extruded Rubber Thread from Malaysia,* 61 FR 54767 (October 22, 1996)). Thus, the Department initiated a COP investigation with respect to Heveafil and Rubberflex. Additionally, upon petitioner's allegation of sales made below the COP by Filati and Rubfil, the Department determined that it had reasonable grounds to believe or suspect that sales by Filati and Rubfil of the foreign product under consideration for the determination of FMV in this review may have been made at prices below the COP as provided by section 773(b) of the Act. Therefore, pursuant to section 773(b) of the Act, we initiated a COP investigation of sales by Filati and Rubfil. *See* COP Initiation Memorandum, dated August 2, 1995.

In order to determine whether home market or third country prices were above the cost of production (COP), we calculated the COP for each model based on the sum of the respondent's cost of materials, labor, other fabrication costs, general expenses, and packing pursuant to 19 CFR 353.51(c).

In accordance with section 773(b) of the Act, and longstanding administrative practice (*see, e.g., Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from Korea,* 56 FR 16306 (April 22, 1991) and *Final Results of Antidumping Duty Administrative Review: Mechanical Transfer Presses from Japan,* 59 FR 9958 (March 2, 1994)), if over ninety percent of respondent's sales of a given model were at prices above the cost of production, we did not disregard any below-cost sales because we determined that the below-cost sales were not made in substantial quantities. Where we found between ten and ninety percent of respondent's sales of a given product were at prices below the COP and the below cost sales were made over an extended period of time, we disregarded only the below-cost sales. Where we found that more than ninety percent of

respondent's sales were at prices below the COP and the sales were made over an extended period of time, we disregarded all sales for that product and calculated FMV based on constructed value (CV), in accordance with section 773(e) of the Act. Based on this test, we disregarded below-cost sales with respect to Heveafil, Filati and Rubfil.

In accordance with section 773(a)(2) of the Act, we used CV as the basis for foreign market value where there were no usable sales of comparable merchandise in the appropriate home, or third country, markets. We calculated CV for each model based on the sum of respondent's cost of manufacture (COM), plus general expenses, profit and U.S. packing. In accordance with section 773(e)(1)(B) of the Act, for general expenses, which include selling, general and administrative expenses (SG&A), we used the greater of the reported general expenses or the statutory minimum of ten percent of the COM. For profit, we used the greater of the weighted-average home or third country market profit during the POR or the statutory minimum of eight percent of the COM and SG&A.

Where FMV was based on third country sales, we based FMV on CIF prices to unrelated customers in comparable channels of trade as that of the U.S. customer. Specifically, in accordance with section 773(a)(1)(B) of the Act, FMV was based on direct sales from Malaysia for purchase price sales comparisons, and on sales from the inventory of each respondent's branch office for ESP sales comparisons.

For home or third country market price-to-purchase price comparisons, we made deductions, where appropriate, for rebates. We also deducted post-sale home or third country market movement charges from FMV under the circumstance of sale provision of section 773(a)(4)(B) of the Act and 19 CFR 353.56(a). This adjustment included Malaysian foreign inland freight, brokerage, ocean freight, marine insurance, brokerage, and inland freight to unrelated customers, where appropriate. Pursuant to 19 CFR 353.56(a)(2), we made circumstance of sale adjustments, where appropriate, for differences in credit expenses.

For home or third country market price-to-ESP comparisons, we made deductions for rebates and credit expenses where appropriate. We deducted the home/third country market indirect selling expenses, including inventory carrying costs, pre-sale freight (*i.e.*, foreign inland freight, brokerage, ocean freight, marine insurance, brokerage, and foreign freight to warehouse) and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

For all price-to-price comparisons, we deducted home or third country market packing costs and added U.S. packing costs, where appropriate, in accordance with section 773(a)(1) of the Act. In addition, where appropriate, we made adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(4)(c) of the Act and 19 CFR 353.57 and where possible, made comparisons at the same level in accordance with 19 CFR 353.58.

For CV-to-purchase price comparisons, we made circumstance of sale adjustments, where appropriate, for credit expenses in accordance with 773(a)(4)(B) and 19 CFR 353.56.

For CV-to-ESP comparisons, we made deductions, where appropriate, for credit expenses. We also deducted the home market or third country market indirect selling expenses, including inventory carrying costs and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

For all CV-to-price comparisons, we added U.S. packing expenses as specified above, in accordance with section 773(a)(1) of the Act.

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a). All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we conducted a verification of information provided by Rubberflex by using standard verification procedures including on-site inspection of the manufacturer's facilities, examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period October 1, 1993, through September 30, 1994:

Manufacturer/exporter	Margin (percent)
Heveafil Sdn. Bhd	0.36
Rubberflex Sdn. Bhd	29.76
Rubfil Sdn. Bhd	29.76
Filati Lastex Elastfibre (Malaysia)	0.00
Rubber Thread	15.16

*Rubber Thread reported that it made no shipments of the subject merchandise during the period of review. Rubber Thread has not been investigated or reviewed previously.

Interested parties may request a disclosure within 5 days of publication of this notice and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication. Rebuttal briefs, limited to issues raised in the briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such briefs.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service. Furthermore, the following deposit requirements will be effective for all shipments of extruded rubber thread from Malaysia entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates established in the final results of this review, except if the rate was less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 353.6, in which case the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the ''all others'' rate, as set forth below.

On March 25, 1993, the U.S. Court of International Trade (CIT) in *Floral Trade Council* v. *United States,* 822 F.Supp. 766 (CIT 1993) and *Federal-Mogul Corporation* v. *United States,* 822 F.Supp. 782 (CIT 1993) decided that once an ''all others'' rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement this decision, it is appropriate to reinstate the original ''all others'' rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders. Because this proceeding is governed by an antidumping duty order, the ''all others'' rate for the purposes of this review will be 15.16 percent, the ''all others'' rate established in the LTFV investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 14, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–3634 Filed 2–12–97; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

[Docket No. 970122010–7010–01]

RIN 0693–XX28

American Lumber Standard Committee, Incorporated; Recommends Additions to Membership

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology announces that it is considering a recommendation from the American Lumber Standard Committee, Incorporated (hereafter referred to as the ALSC) to increase the membership of the ALSC by two additional members. The ALSC has recommended that the National Lumber Grades Authority (NLGA), the rules-writing agency of Canada, and the wood-treaters segment of the lumber industry each be provided one voting membership. NIST will announce its decision in the Federal Register following public review of the recommendation.

DATES: Written comments on the ALSC recommendation must be submitted to Barbara M. Meigs, Standards Management Program, Office of Standards Services, on or before May 14, 1997, for the comments to be considered.

ADDRESSES: Standards Management Program, Room 164, Building 820, Office of Standards Services, National Institute of Standards and Technology, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Barbara M. Meigs, Standards Management Program, Office of Standards Services, National Institute of Standards and Technology, Tel: 301–975–4025, Fax: 301–926–1559, e-mail: barbara.meigs@nist.gov.

SUPPLEMENTARY INFORMATION: Section 9.3.7 of Voluntary Product Standard PS 20–94 American Softwood Lumber Standard, developed under procedures published by the Department of Commerce (15 CFR part 10), has a provision by which the Secretary of Commerce, upon request, can consider making additional appointments to the ALSC to ensure that it has a comprehensive balance of interests. It provides that in such considerations, the Secretary shall consult with the ALSC for advice regarding balance of interests and the criteria by which it may be determined.

The ALSC, at its annual meeting on November 15, 1996, approved requesting two additional memberships: One membership for the NLGA of Canada and one for wood-treaters. This recommendation was sent to NIST for consideration on December 10, 1996.

In its recommendation, the ALSC indicated that an additional entry under 9.3.1 (rules-writing agencies) should be provided to include the NLGA membership. That section pertains to the qualifications of rules-writing agencies as they pertain to the composition of the membership of the ALSC and lists those agencies that may nominate principal and alternate members. In making its recommendation, the ALSC also noted that for many years Canadian representatives have been actively involved in the American lumber standardization system. Membership of the NLGA, therefore, would assist in continuing that beneficial relationship. The ALSC noted that in 1995, Canadian softwood lumber imports into the United States accounted for 36% of the United States lumber market.

With regard to the wood-treaters membership, the ALSC recommended that an additional entry under 9.3.3 (other interested and affected groups) of PS 20–94 should be provided. That section pertains to representation of firms or organizations within organizations and groups that specify, distribute, and purchase lumber. Since 1992, the Board of Review of the ALSC has been accrediting qualified agencies for supervisory and lot inspection of pressure-treated wood products at treating facilities. These agencies monitor treating facilities in accordance to their adherence to applicable standards of the American Wood Preservers' Association. In making its recommendation, the ALSC noted that over 5 billion board feet of treated wood is involved in its treated-wood program.

Authority: 15 U.S.C. 272.

Dated: February 5, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–3525 Filed 2–12–97; 8:45 am]

BILLING CODE 3510–13–M

Jointly Owned Invention Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of a jointly owned invention available for licensing.

SUMMARY: The invention listed below is jointly owned by the U.S. Government, as represented by the Department of Commerce and the University of Colorado, as represented by the Board of Regents of the University of Colorado. The U.S. Government's ownership interest in this invention is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this inventions may be obtained by writing to: Marcia Salkeld, National Institute of Standards and Technology, Industrial Partnerships Program, Building 820, Room 213, Gaithersburg,

MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the invention for purposes of commercialization. The invention available for licensing is:

NIST Docket No. 94–010

Title: Process for Fabrication of Improved Resistive Microbolometers.

Description: In this relatively uncomplicated and reproducible process for fabricating microbolometers, an ultrathin layer of niobium is used as the detector element, and the wafer is cleaned in situ in a low-pressure evaporation system, to provide an instrument having a substantially lower noise level than conventional microbolometers.

Dated: February 6, 1997.

Elaine Bunten-Mines,

Director, Program Office

[FR Doc. 97–3524 Filed 2–12–97; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 020697C]

Endangered Species; Permits

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

ACTION: Issuance of modification 2 to permit 895 (P504D) and an amendment of permit 1005 (P770#71).

SUMMARY: Notice is hereby given that NMFS has issued a modification to a permit to the U.S. Army Corps of Engineers (Corps) at Walla Walla, WA and an amendment of a permit to the Coastal Zone and Estuarine Studies Division (CZESD), NMFS at Seattle, WA that authorize takes of Endangered Species Act-listed species for the purpose of enhancement, subject to certain conditions set forth therein.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

SUPPLEMENTARY INFORMATION: The modification to a permit and the amendment of a permit were issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

Notice was published on October 29, 1996 (61 FR 55789) that an application had been filed by the Corps (P504D) for modification 2 to enhancement permit 895. Modification 2 to permit 895 was issued to the Corps on January 17, 1997. Permit 895 authorizes the Corps annual takes of adult and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*); adult and juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*); and adult and juvenile, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) associated with the operation of the Juvenile Fish Transportation Program on the Snake and Columbia Rivers. For modification 2, the Corps is authorized an increase in the annual incidental take of adult, threatened, Snake River fall chinook salmon associated with the juvenile fish transportation facilities at four hydroelectric projects on the rivers. Modification 2 is valid for the duration of the permit. Permit 895 expires on December 31, 1998.

On February 5, 1997, NMFS issued an amendment of CZESD's enhancement permit 1005. Permit 1005 authorizes CZESD takes of adult and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) associated with a captive broodstock program, being conducted in cooperation with the Idaho Department of Fish and Game (IDFG). For the amendment, CZESD is authorized to transfer ESA-listed sockeye salmon eggs and/or juveniles to the Mitchell Act-funded rearing facility at Bonneville Hatchery, operated by the Oregon Department of Fish and Wildlife (ODFW), and/or any other hatchery facility deemed acceptable by the Environmental and Technical Services Division (ETSD), NMFS in Portland, Oregon, for final rearing. ODFW, and any other agency to receive ESA-listed fish and/or eggs from CZESD, will be acting as an agent of CZESD under the terms and conditions of permit 1005 in the care and maintenance of the fish and/or eggs. When the ESA-listed fish are smolts, ODFW, and any other agency to receive ESA-listed fish and/or eggs from CZESD, is authorized to transfer the fish to IDFG for release in Stanley Basin Lakes and outlet streams. Permit 1005 has also been extended to be valid through December 31, 1997. The amendment is valid for the duration of the permit.

Issuance of the modification to a permit and the amendment of a permit, as required by the ESA, was based on a finding that such actions: (1) Were requested/proposed in good faith, (2) will not operate to the disadvantage of the ESA-listed species that are the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: February 7, 1997.

Robert C. Ziobro,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–3570 Filed 2–12–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Washington Headquarters Service.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Washington Headquarters Services announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received on or before April 14, 1997.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to

the Office of the Secretary of Defense, Washington Headquarters Services, Real Estate & Facilities Directorate, ATTN: Ms. Jennie Blakeney, Room 3C345, Pentagon, Washington, D.C. 20301–1155.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the Pentagon Parking Management Office, at (703) 697–6251.

Title, Associated Form and OMB Number: Vehicle Access Application, OMB Control Number 0704–0329.

Needs and Uses: The information collection requirement is necessary to control entry into the Pentagon.

Affected Public: Employees of commercial firms requesting entrance to the Pentagon.

Annual Burden Hours: 25.

Number of Respondents: 300.

Responses per Respondent: 1.

Average Burden per Response: 5 minutes.

Frequency: On occasion and annually.

SUPPLEMENTARY INFORMATION: Respondents are non-DoD personnel who request consideration to enter controlled Pentagon entrances. The information provided by the requester consists of name, social security number, date of birth, race, sex, U.S. citizenship, vehicle description and tag numbers, and justification for entrance to the Pentagon. The information is entered into a computerized database maintained by the Parking Management Office. The name and vehicle information only, is accessed by the Defense Protective Service Officers stationed at controlled entrances to the Pentagon. The Vehicle Access Application is filled out upon initial request and annually thereafter.

Dated: February 7, 1997.

Patricia L. Toppings,

Alternatie OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–3592 Filed 2–12–97; 8:45 am]

BILLING CODE 5000–04–M

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense (DoD) announces a meeting of the Defense Partnership Council. Notice of this meeting is required under the Federal Advisory Committee Act. This meeting is open to the public. The topics to be covered are the Federal Managers Association (FMA) membership on the Council and a discussion of general DoD Human Resources initiatives.

DATES: The meeting is to be held March 19, 1997, in room 1E801, Conference Room 7, the Pentagon, from 1:00 p.m. until 3:00 p.m. Comments should be received by March 11, 1997, in order to be considered at the March 19 meeting.

ADDRESSES: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Kenneth Oprisko at the address shown below. Seating is limited and available on a first-come, first-serve basis. Individuals wishing to attend who do not posses an appropriate Pentagon building pass should call the below listed telephone number to obtain instructions for entry into the Pentagon. Handicapped individuals wishing to attend should also call the below listed telephone number to obtain appropriate accommodations.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Blvd. Suite B–200, Arlington, VA 22209–5144, (703), ext. 704.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–3593 Filed 2–12–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Notice of proposed information collection requests.

AGENCY: Department of Education

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by April 15, 1997.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Written comments regarding the regular clearance and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 7, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of the Under Secretary

Type of Review: New.

Title: Family Involvement in Elementary and Middle School.

Abstract: Research shows that family involvement in education is key to children learning to challenging standards. However, certain important questions could not be answered with extant data. Accordingly, this data is relevant to ED's current initiative on family involvement in education and to the efforts of the 2500 grassroots organizations that are members of the Partnership for Family Involvement in Education. They include schools, education, parent, and community groups and employers. Survey results are intended for presentation first by the Vice President at the 1997 annual Family Reunion VI themed, ''Family, School, and Community''.

Additional Information: Emergency clearance is urgently requested for the survey so that results can first be announced at the Vice President's Family Reunion VI themed, ''Family, School, and Community.'' This conference is scheduled for late June and media interest is anticipated. Approval is requested by April 15, 1997. If approval is not received by that date, the latest information on family involvement in education will not be available for the Vice President's conference at which issues addressed in the survey will be discussed.

Frequency: One Time.

Affected Public: Individuals or households.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 700.

Burden Hours: 93.

[FR Doc. 97–3571 Filed 2–12–97; 8:45 am]

BILLING CODE 4000–01–P

[CFDA NO.: 84.275B]

Partnership Training, Technical Assistance; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1997

Purpose of Program: To provide technical assistance to grantees that receive funding for projects funded under section 302(e)(1) of the Rehabilitation Act of 1973, as amended (the Act).

Eligible Applicants: States, public or nonprofit private agencies and organizations, and institutions of higher education not receiving financial assistance under section 302(e)(1) of the Act.

Deadline for Transmittal of Applications: April 11, 1997.

Deadline for Intergovernmental Review: June 10, 1997.

Applications Available: February 18, 1997.

Available Funds: $100,000.

Estimated Range of Awards: $75,000—$100,000.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Statutory Requirements: The statutory requirements in section 302(e) of the Rehabilitation Act of 1973, as amended, apply to this program.

In accordance with section 302(e)(4) of the Act, the award made under this competition must be used for the purpose of providing technical assistance to States or entities receiving grants under a separate competition of the Partnership Training program, which was announced in the Federal Register on February 3, 1997 (62 FR 4988). The award for this competition will be made in the form of a cooperative agreement with an entity that has successfully demonstrated the capacity and expertise in the education, training, and retention of employees to serve individuals with disabilities through the use of consortia or partnerships established for the purpose of retraining the existing work force and providing opportunities for career enhancement.

For Applications: To request an application package, please write to U.S. Department of Education, 600 Independence Avenue, S.W., Room 3038 Switzer Building, Washington, D.C., 20202–2649, Attention Joyce R. Jones; or call (202) 205–8351.

For Information Contact: Dr. Beverly Brightly, U.S. Department of Education, Room 3322, Switzer Building, 600 Independence Avenue, S.W., Washington, D.C. 20202–2649. Telephone: (202) 205–9561. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 29 U.S.C. 774.

Dated: February 10, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–3613 Filed 2–12–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–212–001]

CNG Transmission Corporation; Notice of Compliance Filing

February 7, 1997.

Take notice that on February 5, 1997, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

First Revised Sheet No. 107A
First Revised Sheet No. 120A
Fourth Revised Sheet No. 136
Third Revised Sheet No. 202
First Revised Sheet No. 362

CNG requests an effective date of December 31, 1996, for its proposed tariff sheets.

CNG states that the purpose of this filing is to comply with the directive of the Commission's January 21 Letter Order. CNG has consolidated the statement of its policy with respect to financing or construction of laterals, within the General Terms and Conditions of its Tariff. To that end, CNG has moved existing customer

reimbursement provisions from the Monthly Bill section of each affected rate schedule, and added this statement to Section 20 of the General Terms. Section 5.1 of each affected rate schedule has been modified to reference Section 20.

CNG states that copies of this letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions, and to the parties to the captioned proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3549 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–231–000]

CNG Transmission Corporation; Notice of Application

February 7, 1997.

Take notice that on February 4, 1997, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP97–231–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA), for permission and approval to abandon, by sale to Ashland Exploration, Inc. (Ashland), certain certificated facilities, known as Line H–169 located in Big Sandy Township, Kanawha County, West Virginia. CNG also request that the Commission confirm the non-jurisdictional nature of Ashland's operation of the subject facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that the facilities proposed to be abandoned herein, were constructed in 1925 and certificated in 1943, in Docket No. G–290 as part of Hope Natural Gas Company's grandfather certificate, of facilities under the Natural Gas Act. CNG states that since its restructuring of services under Order No. 636, that it no longer has need of the minor certificated facilities that it is proposing to abandon in this proceeding. CNG avers that Line H–169 connects production owned by Ashland to CNG's 10-inch H–168 Line, and that it has classified both Lines H–169 and H–168 as gathering lines.

Specifically, CNG is proposing to abandon approximately 3.5 miles of 10-inch diameter pipeline, (and miscellaneous lengths of line ranging from 1-inch to 8-inches). CNG states that it intends to sell the facilities to Ashland for $6,000.

It is indicated that Ashland is the only producer who has production located on the line proposed to be abandoned, and that no transportation contracts will be terminated by virtue of the proposed sale of facilities to Ashland.

CNG states that the Commission has consistently recognized that gas moving through pipelines in production areas with the size, length and pressure of Line H–169 are typical of gathering. CNG states that it therefore, believes that the Commission should confirm the non-jurisdictional nature of Ashland's operations of the line segments, once Ashland has acquired the faculties.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (19 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CNG to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3555 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2035]

City and County of Denver, CO; Notice of Public Meeting To Discuss Information Needs for the Proposed Relicensing of the Gross Reservoir Hydroelectric Project

February 7, 1997.

Take notice that the Commission Staff will hold a meeting with staff of the Denver Water Board, acting for the licensee for the existing Gross Reservoir Project, on Thursday, February 27, 1997, from 9:00 a.m. to 11:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First St., N.E., Washington, D.C. 20426.

The purpose of the meeting is for Denver Water Board staff to conduct an introductory briefing on Denver's water supply system and to determine the scope and level of detail of the information the Commission staff requested in a letter dated January 7, 1997. The Commission staff requested a description of the physical facilities and operation of the Denver water supply system, of which the Gross Reservoir Project is a part, to assess the project's cumulative impacts on threatened and endangered species. All interested individuals, organizations, and agencies are invited to attend the meeting.

For further information, please contact Dianne Rodman at (202) 219–2830.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3552 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–8–23–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 7, 1997.

Take notice that on February 5, 1997, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, with a

proposed effective date of February 1, 1997.

ESNG states that the purpose of the instant filing is to track rate changes attributable to storage service purchased from Columbia Gas Transmission Corporation (Columbia) under Columbia's Rate Schedules SST and FSS the costs of which are included in the rates and charges payable under ESNG's Rate Schedules CWS and CFSS effective February 1, 1997. This tracking filing is being filed pursuant to Section 24 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect changes in ESNG's jurisdictional rates.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of practice and Procedure (18 CFR Section 385.211 and Section 385.214). All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3548 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–227–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

February 7, 1997.

Take notice that on February 4, 1997, El Paso Natural (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed a request with the Commission in Docket No. CP97–227–000, pursuant to Sections 157.205, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon certain miscellaneous tap and meter facilities and the service rendered by means thereof authorized in blanket certificate issued in Docket No. CP82–435–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

El Paso proposes to abandon 34 miscellaneous facilities, with associated appurtenances and related natural gas service rendered by such facilities. The facilities consist of 32 taps and two meter stations, and were required by El Paso to facilitate, generally, the delivery and/or measurement and sale of natural gas from its interstate transmission pipeline system to certain customers for resale. El Paso states that they would remove such facilities and place in stock the salvable materials and scrap the nonsalvable items, without material change in its average cost-of-service. El Paso also states that they have examined the abandonment action proposed and anticipates no adverse environmental effects of each action that might be incurred, and should any occur, they would be minor and of a temporary nature.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3553 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–115–000]

Koch Gateway Pipeline Company; Notice of Technical Conference

February 7, 1997.

In the Commission's order issued on December 27, 1996,[1] in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened.

The conference to address the issues has been scheduled for Wednesday, February 19, 1997, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3547 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[1] 77 FERC ¶ 61,332 (1996).

[Docket No. RP96–320–006]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

February 7, 1997.

Take notice that on February 5, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet, to be effective February 5, 1997:

Second Revised Sheet No. 29

Koch states that this tariff sheet reflects the necessary reporting requirements as ordered by the Commission for a specific negotiated rate transaction.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E. Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protest must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3550 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–195–001]

Missouri Gas Energy, A Division of Southern Union Company, Complainant, v. Williams Natural Gas Company, Respondent; Notice of Amendment to Complaint and Extension of Time

February 7, 1997.

Take notice that on February 3, 1997, Missouri Gas Energy, A Division of Southern Union Company (MGE), 504 Lavaca, Suite 800, Austin, Texas 78701, filed in Docket No. CP97–195–001, an amendment to its original complaint filed on January 13, 1997 in Docket No. CP97–195–000, pursuant to Section 5 of

the Natural Gas Act and Rules 206 and 212 of the Commission's Rules of Practice and Procedure. In its original complaint, MGE requested, *inter alia*, an immediate contract reduction in its contract demand volume with Williams Natural Gas Company (Williams) if the Commission found Williams' construction project to be lawful. In its amendment to its complaint, MGE states that upon further review it does not seek at this time the previously requested contract demand reduction relief.

In order that protests, interventions and answers to the complaint and the amended complaint may be filed on the same date, an extension of time is being granted. Any person desiring to be heard or to make a protest with reference to the complaint and the amendment should on or before February 28, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to this proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Answers to the complaint and the amendment shall be due on or before February 28, 1997.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3558 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–232–000]

National Fuel Gas Supply Corporation; Notice of Request Under Blanket Authorization

February 7, 1997.

Take notice that on February 6, 1997, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed a request with the Commission in Docket No. CP97–232–000, pursuant to Sections 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a sales tap to render service for an existing firm transportation customer authorized in blanket certificate issued in Docket No. CP83–4–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

National proposes to construct and operate a new sales tap to provide service to National Fuel Gas Distribution Corporation. The sales tap, designated as Station No.–2886, would be located in McKean County, Pennsylvania, on National's Line S–21 and would provide a proposed quantity of up to 100 Mcf per day. The estimated cost of the proposed sales tap is $20,000, for which National would be reimbursed.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3554 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL97–25–000]

NorAm Energy Services, Inc.; Notice of Issuance of Order Initiating Jurisdictional Inquiry

February 7, 1997.

On February 5, 1997, the Commission issued an order initiating a jurisdictional inquiry concerning the planned merger of NorAm Energy Corporation, the parent company of NorAm Energy Services, Inc. (NorAm), a public utility, with Houston Industries, Incorporated, an exempt public utility holding company, and Houston Industries' subsidiaries, Houston Lighting & Power Company, an electric utility located in the Electric Reliability Council of Texas, and Houston Industries Energy, Inc., owner of various interests in foreign utilities, exempt wholesale generators, and a qualifying facility.[1]

Because the planned merger may require Commission approval pursuant to section 203 of the Federal Power Act,[2] the order directs NorAm to make a filing setting forth its views on the issue, and offers other interested persons an opportunity to comment on NorAm's filing. The order states that, in the alternative, NorAm may file an application for authorization pursuant to section 203.

The order directs NorAm to make said filing within 30 days of the issuance date of the order. If NorAm files a response arguing that authorization under section 203 is not required, interventions, protests, or comments are due 15 days after NorAm's filing. If NorAm files an application under section 203, interventions, protests, or comments will be due as specified by further notice.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3559 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[1] NorAm Energy Services, Inc., 78 FERC ¶61,111 (1997).

[2] 16 U.S.C. § 824b.

[Docket No. RP96–200–017]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

February 7, 1997.

Take notice that on February 3, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective February 1, 1997:

Tenth Revised Sheet No. 7
Third Revised Sheet No. 7A
Third Revised Sheet No. 7B
Third Revised Sheet No. 7C
Third Revised Sheet No. 7D
Original Sheet No. 7E.01
Original Sheet No. 7E.02
Original Sheet No. 7E.03
First Revised Sheet No. 7F

NGT states that these tariff sheets are filed herewith to reflect specific negotiated rate transactions for the month of February, 1997.

Any person desiring to protest said filing should file protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Copies of this filing are

on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3551 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–229–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

February 7, 1997.

Take notice that on February 4, 1997, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP97–229–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct a delivery point in New Jersey for providing natural gas deliveries to Elizabethtown Gas Company, a Division of NUI Corporation (Elizabethtown), under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the commission and open to public inspection.

Texas Eastern proposes to construct, install, own, operate and maintain an 8-inch tap valve (Tap) and dual 6-inch orifice meters (Meter Station), electronic gas measurement equipment, and approximately 120 feet of 8-inch pipeline which will extend from the Meter Station to the Tap and appurtenant facilities on Texas Eastern's existing 24-inch Line No. 20–B at Mile Post 7.68 in Union County, New Jersey. In addition to these facilities, Elizabethtown will install, or cause to be installed, and own, operate and maintain a heater and pressure regulation valves. The estimated capital costs of Texas Eastern's proposal is $1,922,000. Texas Eastern will deliver up to 58 MMcf/d of natural gas at the proposed delivery point.

Texas Eastern states that its existing tariff does not prohibit the additional facility and that the new delivery point will have no effect on peak or annual deliveries and that this proposal can be accomplished without detriment or disadvantage to other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3556 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–220–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

February 7, 1997.

Take notice that on January 31, 1997, Texas Eastern Transmission Corporation (TETCO), 5400 Westheimer Court, Houston, TX 77056–5310 filed in Docket No. CP97–220–000 a request pursuant to Sections 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for approval and permission to operate, as a jurisdictional facility under Section 7(c) of the Natural Gas Act, a delivery point in Montgomery County, Texas, which was previously constructed under Section 311 of the Natural Gas Policy Act of 1978 (NGPA) for the delivery of natural gas to the city of Magnolia, Texas (Magnolia) on behalf of Union Natural Gas Pipeline Company (Union Natural), under the blanket certificate issued in Docket No. CP82–535–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Additionally, pursuant to Section 385.216 of the Commission's Regulations, this application also serves as TETCO's notice of withdrawal of its Request for Authorization of Blanket Activity filed in Docket No. CP97–157–000.

TETCO states that it constructed the delivery point consisting of a two-inch tap valve and two-inch check valve on TETCO's twenty-four inch Line No. 11 in Montgomery County, Texas. TETCO further states that Union Natural installed or caused to be installed, a single two-inch turbine (Meter Station), approximately fifty feet of two-inch pipeline which extends from the Meter Station to the tap, and electronic gas measurement equipment. It is indicated that TETCO will render firm transportation through the delivery point pursuant to TETCO's Rate Schedule FT–1.

Any person or the Commission's Staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3557 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG97–8–000, et al.]

P.H. Don Pedro, S.A., et al.; Electric Rate and Corporate Regulation Filings

February 6, 1997.

Take notice that the following filings have been made with the Commission:

1. P.H. Don Pedro, S.A.

[Docket No. EG97–8–000]

On October 29, 1996, P.H. Don Pedro, S.A., a corporation (sociedad anónima) organized under the laws of Costa Rica (''Applicant''), with its principal place of business at Santo Domingo de Heredia del Hotel Bouganville 200 Mts. al Este de la Iglesia Católica (Primera Entrada Portón con Ruedas de Artilleria) Heredia, Costa Rica, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations (the ''Application'').

Applicant intends to own and operate an approximately 14 megawatt (net), hydroelectric power production facility located in the District of Sarapiquí, Canton of Alajuela, Province of Alajuela, Costa Rica.

On February 4, 1997, the Applicant filed an amendment to the Application to reflect that Baltimore Gas and Electric

Company and the Potomac Electric Power Company are affiliates and associate companies of the Applicant.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amendment.

Citizens Power & Light Corp., KN Marketing, Inc., CL Power Sales One, L.L.C. CL Power Sales Two-Five, L.L.C., New Jersey Natural Energy Company, Sandia Energy Resources Company, and CL Power Sales Six, L.L.C.

[Docket No. ER89–401–030, Docket No. ER95–869–007, Docket No. ER95–892–009, Docket No. ER95–892–010, Docket No. ER96–2627–001, Docket No. ER96–2538–002, and Docket No. ER96–2652–002 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 24, 1997, Citizens Power & Light Corporation filed certain information as required by the Commission's August 8, 1989, order in Docket No. ER89–401–000.

On January 23, 1997, KN Marketing, Inc. filed certain information as required by the Commission's May 26, 1995, order in Docket No. ER95–869–000.

On January 24, 1997, CL Power Sales One, L.L.C. filed certain information as required by the Commission's June 8, 1995, order in Docket No ER95–892–000.

On January 24, 1997, CL Power Sales Two-Five, L.L.C. filed certain information as required by the Commission's June 8, 1995, order in Docket No. ER95–892–000.

On January 28, 1997, New Jersey Natural Energy Company filed certain information as required by the Commission's October 2, 1996, order in Docket No. ER–96–2627–000.

On January 31, 1997, Sandia Energy Resources Company filed certain information as required by the Commission's September 26, 1996, order in Docket No. ER96–2538–000.

On January 24, 1997, CL Power Sales Six, L.L.C. filed certain information as required by the Commission's September 23, 1996, order in Docket No. ER96–2652–000.

3. InterCoast Power Marketing Co., AIG Trading Corporation, CNG Power Services Corporation, Premier Enterprises, Inc., ConAgra Energy Services, Inc., U.S. Power & Light, Inc., and Cleveland Electric Illuminating Company

[Docket No. ER94–6–006, Docket No. ER94–1691–012, Docket No. ER94–1554–011, Docket No. ER95–1123–004, Docket No. ER95–1751–005, Docket No. ER96–105–005, Docket No. ER96–371–002, and (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 31, 1997, InterCoast Power Marketing Company filed certain information as required by the Commission's August 19, 1994, order in Docket No. ER94–6–000.

On January 31, 1997, AIG Trading Corporation filed certain Information as required by the Commission's January 19, 1995, order in Docket No. Docket No. ER94–1691–000.

On January 31, 1997, CNG Power Services Corporation filed certain information as required by the Commission's October 25, 1994, order in Docket No. ER94–1554–000.

On January 29, 1997, Premier Enterprises, Inc. filed certain information as required by the Commission's August 7, 1995, order in Docket No. ER95–1123–000.

On January 31, 1997, ConAgra Energy Services, Inc. filed certain information as required by the Commission's October 23, 1995, order in Docket No. ER95–1751–000.

On January 27, 1997, U.S. Power & Light, Inc. filed certain information as required by the Commission's December 6, 1995, order in Docket No. ER96–105–000

On January 31, 1997, Cleveland Electric Illuminating Company filed certain information as required by the Commission's June 28, 1996, order in Docket No. ER96–371–000.

4. Enron Power Marketing, Inc., Electric Clearinghouse, Inc., Mock Energy Services, L.P., Phibro Inc., NFR Power, Inc., Utility Management Corporation, and ANP Energy Direct Company

[Docket No. ER94–24–018, Docket No. ER94–968–016, Docket No. ER95–300–011, Docket No. ER95–430–008, Docket No. ER96–1122–003, Docket No. ER96–1144–003, and Docket No. ER96–1195–003 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 31, 1997, Enron Power Marketing, Inc. filed certain information as required by the Commission's December 2, 1993, order in Docket No. ER94–24–000.

On January 31, 1997, Electric Clearinghouse, Inc. field certain information as required by the Commission's April 7, 1994, order in Docket No. ER94–968–000.

On January 16, 1997, Mock Energy Services, L.P. filed certain information as required by the Commission's March 16, 1995, order in Docket No. ER95–300–000.

On January 24, 1997, Phibro Inc. filed certain information as required by the Commission's June 9, 1995, order in Docket No. ER95–430–000.

On January 30, 1997, NFR Power, Inc. filed certain information as required by the Commission's April 2, 1996, order in Docket No. ER96–1122–000.

On January 31, 1997, Utility Management Corporation filed certain information as required by the Commission's April 5, 1996, order in Docket No. ER94–1144–000.

On January 10, 1997, ANP Energy Direct Company filed certain information as required by the Commission's May 1, 1996, order in Docket No. ER96–1195–000.

5. North American Energy, Conservation, Inc., Morgan Stanley Capital Group Inc., Valero Power Services Company, Destec Power Services, Inc., Aquila Power Corporation, Northeast Utilities Service Co., and Plum Street Marketing, Inc.

[Docket No. ER94–152–012, Docket No. ER94–1384–013, Docket No. ER94–1394–010, Docket No. ER94–1612–001, Docket No. ER95–216–013, Docket No. ER96–496–007, and Docket No. ER96–2525–000 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 30, 1997, North American Energy Conservation, Inc. filed certain information as required by the Commission's February 10, 1994, order in Docket No. ER94–152–000.

On January 30, 1997, Morgan Stanley Capital Group, Inc. filed certain information as required by the Commission's February 10, 1994, order in Docket No. ER94–1384–000.

On January 30, 1997, Valero Power Services Company filed certain information as required by the

Commission's August 24, 1994, order in Docket No. ER94–1394–000.

On January 30, 1997, Destec Power Services, Inc. filed certain information as required by the Commission's January 20, 1995, order in Docket No. ER94–1612–000.

On January 29, 1997, Aquila Power Corporation, filed certain information as required by the Commission's September 2, 1996, order in Docket No. ER95–215–000.

On January 30, 1997, Northeast Utilities Service Company filed certain information as required by the Commission's January 30, 1996, order in Docket No. ER96–496–000.

On January 30, 1997, Plum Street Energy Marketing, Inc. filed certain information as required by the Commission's September 2, 1996, order in Docket No. ER96–2525–000.

6. Hartford Power Sales L.L.C., Southern Energy Trading & Marketing Inc., Sonat Power Marketing, Inc., National Fuel Resources, Inc., Energy Resource Management Corp., Indeck Pepperell Power Assoc. Inc., and Sonat Power Marketing, Inc.

[Docket No. ER95–393–011, Docket No. ER95–976–007, Docket No. ER95–1050–000, Docket No. ER95–1374–005, Docket No. ER96–358–004, Docket No. ER96–1635–002, and Docket No. ER96–2343–002 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 30, 1997, Hartford Power Sales, L.L.C. filed certain information as required by the Commission's February 22, 1995, order in Docket No. ER95–393–000,

On January 28, 1997, Southern Energy Trading & Marketing, Inc. filed certain information as required by the Commission's September 29, 1995, order in Docket No. ER95–976–000.

On January 23, 1997, Sonat Power Marketing, Inc. filed certain information as required by the Commission's August 18, 1995, order in Docket No. ER95–1050–000.

On January 30, 1997, National Fuel Resources, Inc. filed certain information as required by the Commission's September 7, 1995, order in Docket No. ER95–1374–000.

On January 16, 1997, Energy Resource Management Corp. filed certain information as required by the Commission's December 20, 1995, order in Docket No. ER96–358–000.

On January 27, 1997, Indeck Pepperell Power Assoc. Inc. filed certain information as required by the Commission's July 15, 1996, ordered in Docket No. ER96–1635–000.

On January 23, 1997, Sonat Power Marketing, L.P. filed certain information as required by the Commission's August 12, 1996, order in Docket No. ER96–2343–000.

7. Delhi Gas Pipeline Corporation, Ruffin Energy Services, Inc., Vastar Power Marketing, Inc., EnergyOnline, Inc., NUI-Corporation-Energy Brokers, Inc., and TPC Corporation

[Docket No. ER95–940–007, Docket No. ER95–1047–006, Docket No. ER95–1685–005, Docket No. ER96–138–003, Docket No. ER96–2580–002, and Docket No. ER96–2658–002 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 27, 1997, Delhi Gas Pipeline Corporation filed certain information as required by the Commission's June 1, 1995, order in Docket No. ER95–940–000.

On January 16, 1997, Ruffin Energy Services Inc. filed certain information as required by the Commission's July 7, 1995, order in Docket No. ER95–1047–000.

On January 23, 1997, Vastar Power Marketing, Inc. filed certain information as required by the Commission's October 26, 1995, order in Docket No. ER95–1685–000.

On January 22, 1997, EnergyOnline, Inc. filed certain information as required by the Commission's January 5, 1996, order in Docket No. ER96–138–000.

On January 28, 1997, NUI-Corporation-NUI Energy Brokers, Inc. filed certain information as required by the Commission's August 29, 1996, order in Docket No. ER96–2580–000.

On January 21, 1997, TPC Corporation filed certain information as required by the Commission's September 30, 1996, order in Docket No. ER96–2658–000.

8. Boston Edison Company

[Docket No. ER97–426–000]

Take notice that on January 6, 1997, Boston Edison Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

On January 21, 1997, TPC Corporation filed certain information as required by the Commission's September 30, 1996, order in Docket No. ER96–2658–0000.

9. Boston Edison Company

[Docket No. ER97–557–000]

Take notice that on January 6, 1997, Boston Edison Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Boston Edison Company

[Docket No. ER97–560–000]

Take notice that on January 6, 1997, Boston Edison Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Boston Edison Company

[Docket No. ER97–563–000]

Take notice that on January 6, 1997, Boston Edison Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Boston Edison Company

[Docket No. ER97–612–000]

Take notice that on January 6, 1997, Boston Edison Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Dayton Power & Light Company

[Docket No. ER97–1285–000]

Take notice that on January 24, 1997, Dayton Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Dayton Power & Light Company

[Docket No. ER97–1286–000]

Take notice that on January 24, 1997, Dayton Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. EDC Power Marketing, Inc.

[Docket No. ER97–1329–000]

Take notice that on January 17, 1997, EDC Power Marketing, Inc. tendered for filing a Notice of Cancellation its Rate Schedule No. 1.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. United Illuminating Company

[Docket No. ER97–1340–000]

Take notice that on January 21, 1997, United Illuminating Company tendered for filing a Notice of Intent to Amend its Open Access Transmission Tariff.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Tractebel Energy Marketing, Inc.

[Docket No. ER97–1374–000]

Take notice that on January 22, 1997, Tractebel Energy Marketing, Inc. tendered for filing a Notice of Succession reflecting a change in the name of CRSS Power Marketing, Inc. to Tractebel Energy Marketing, Inc.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Southern Company Services, Inc.

[Docket No. ER97–1396–000]

Take notice that on January 28, 1997, Southern Company Services, Inc. (SCSI), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed one (1) service agreement under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) with the following entity: Federal Energy Sales, Inc. SCSI states that the service agreement will enable Southern Companies to engage in short-term market-based rate transactions with this entity.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. South Jersey Energy Company

[Docket No. ER97–1397–000]

Take notice that on January 28, 1997, South Jersey Energy Company (SJEC), applied to the Commission for acceptance of SJEC Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

SJEC intends to engage in wholesale electric power and energy purchases and sales as a marketer.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. PECO Energy Company

[Docket No. ER97–1398–000]

Take notice that on January 27, 1997, PECO Energy Company (PECO), filed a Service Agreement dated December 19, 1996 with MidCon Power Services Corp. (MPS) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds MPS as a customer under the Tariff.

PECO requests an effective date of December 30, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to MPS and to the Pennsylvania Public Utility Commission.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. PECO Energy Company

[Docket No. ER97–1399–000]

Take notice that on January 27, 1997, PECO Energy Company (PECO), filed a Service Agreement dated November 6, 1996 with Green Mountain Power Corporation (Green Mountain) under PECO's FERC Electric Tariff, First Revised Volume No. 4 (Tariff). The Service Agreement adds Green Mountain as a customer under the Tariff.

PECO requests an effective date of December 30, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to Green Mountain and to the Pennsylvania Public Utility Commission.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Orange and Rockland Utilities, Inc.

[Docket No. ER97–1400–000]

Take notice that on January 27, 1997, Orange and Rockland Utilities, Inc. (Orange and Rockland), tendered for filing an application for an order accepting its FERC Electric Rate Schedule which will permit Orange and Rockland to make wholesale sales to eligible customers of electric power at market-determined prices, including sales not involving Orange and Rockland's generation or transmission.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Cleveland Electric Illuminating Company and The Toledo Edison Company

[Docket No. ER97–1401–000]

Take notice that on January 27, 1997, the Centerior Service Company as Agent for The Cleveland Electric Illuminating Company and the Toledo Edison Company filed Service Agreements to provide Non-Firm Point-to-Point Transmission service for Centerior Wholesale Power Marketing, the Transmission Customer. The companies request an effective date of January 1, 1997.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. New England Power Pool

[Docket No. ER97–1402–000]

Take notice that on January 27, 1997, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by Coral Power, L.L.C. (Coral Power). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit Coral Power to join the over 100 Participants already in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Coral Power a Participant in the Pool. NEPOOL requests an effective date of March 1, 1997, or as soon as possible thereafter for commencement of participation in the Pool by Coral Power.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Northern Indiana Public Service Company

[Docket No. ER97–1403–000]

Take notice that on January 27, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement between Northern Indiana Public Service Company and Consumers Energy Company and The Detroit Edison Company.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Consumers Energy Company and The Detroit Edison Company pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. ER96–1426–000 and allowed to become effective by the Commission, and as amended in Docket No. OA96–47–000. *Northern Indiana Public Service Company,* 75 FERC ¶ 61,213 (1996). Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of February 15, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Northern Indiana Public Service Company

[Docket No. ER97–1404–000]

Take notice that on January 27, 1997, Northern Indiana Public Service Company, tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Consumers Power Company and The Detroit Edison Company.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Consumers Power Company and The Detroit Edison Company under Northern Indiana Public Service Company's Power Sales Tariff. Northern Indiana Public Service Company and Consumers Power Company and The Detroit Edison Company request waiver of the Commission's sixty-day notice requirement to permit an effective date of February 15, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumers Counselor.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Southern Indiana Gas and Electric Company

[Docket No. ER97–1405–000]

Take notice that on January 28, 1997, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing six (6) service agreements for market based rate power sales under its Market Based Rate Tariff with the following entities:

1. Big Rivers Electric Corporation
2. Cinergy Services, Inc.
3. Enron Power Marketing, Inc.
4. Koch Energy Trading, Inc.
5. Louisville Gas & Electric Company
6. Indianapolis Power & Light Company

Copies of the filing were served upon each of the parties to the service agreements.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Southern Indiana Gas and Electric Company

[Docket No. ER97–1406–000]

Take notice that on January 28, 1997, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing two (2) service agreements for non-firm transmission service under Part II of its Transmission Service Tariff with the following entities:

1. Enron Power Marketing, Inc.
2. Koch Power Services, Inc.

Copies of the filing were served upon each of the parties to the service agreements.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Oklahoma Gas and Electric Company

[Docket No. ER97–1407–000]

Take notice that on January 28, 1997, Oklahoma Gas and Electric Company (OG&E), tendered for filing service agreements for parties to take service under its open access tariff.

Copies of this filing have been served on each of the affected parties, the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–1411–000]

Take notice that on January 28, 1997, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Southern Energy, Inc. (Southern Energy).

Con Edison states that a copy of this filing has been served by mail upon Southern Energy.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Central Illinois Public Service Company

[Docket No. ER97–1413–000]

Take notice that on January 27, 1997, Central Illinois Public Service Company (''CIPS'') submitted Service Agreements establishing American Electric Power Company, Inc. (''AEP''), Central Illinois Light Company (''CILCO''), CNG Power Services Corporation (''CNG''), Commonwealth Edison Company (''CECO''), Illinois Power Company (''IPC''), Minnesota Power & Light Company (''MP&L''), Morgan Stanley Capital Group Inc. (''Morgan Stanley''), Northern Indiana Public Service Company (''Northern''), PanEnergy Services Trading and Market Services, L.L.C. (''PAN''), The Power Company of America, LP (''PCA''), Union Electric Company (''UE''), Virginia Power Company (''Virginia Power'') and WPS Energy Services, Inc. (''WPS''), as new customers under the terms of CIPS' Coordination Sales Tariff CST–1 (''CST–1 Tariff'').

CIPS requests an effective date of December 31, 1996 for the thirteen service agreements and the revised Index of Customers. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon the thirteen customers and the Illinois Commerce Commission.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Niagara Energy & Steam Co., Inc.

[Docket No. ER97–1414–000]

Take notice that on January 28, 1997, Niagara Energy & Steam Co., Inc. tendered for filing an Application for Blanket Authorizations, Certain Waivers, and Order Approving Rate Schedule.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. New England Power Company

[Docket No. ER97–1415–000]

Take notice that on January 24, 1997, New England Power Company (NEP) tendered for filing two agreements for engineering studies to be conducted pursuant to the terms, conditions and rates of NEP's Tariff No. 9 (Open Access transmission): (1) a System Impact Study Agreement entered into with Energy Management, Inc. and (2) a Facilities Study Agreement entered into with U.S. Generating Co.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Cinergy Services, Inc.

[Docket No. ER97–1416–000]

Take notice that on January 28, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated December 1, 1996, between Cinergy, CG&E, PSI and ConAgra Energy Services, Inc. (CES).

The Interchange Agreement provides for the following service between Cinergy and CES.

1. Exhibit A—Power Sales by CES.
2. Exhibit B—Power Sales by Cinergy.

Cinergy and CES have requested an effective date of January 27, 1997.

Copies of the filing were served on ConAgra Energy Services, Inc., the

Nebraska Public Service Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

35. Rochester Gas and Electric

[Docket No. ER97–1418–000]

Take notice that on January 23, 1997, Rochester Gas and Electric Corporation (''RG&E'') tendered for filing Second Revised Sheet Nos. 8, 17 and 18 of its open access transmission tariff (''Tariff''). RG&E proposes certain revisions so that its Tariff reflects regional practices.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

36. PECO Energy Company

[Docket No. ER97–1419–000]

Take notice that on January 23, 1997, PECO Energy Company (PECO) filed a Service Agreement dated January 14, 1997, with Niagara Mohawk Power Corporation (NiMo) under PECO's FERC Electric tariff Original Volume No. 5 (Tariff). The Service Agreement adds NiMo as a customer under the Tariff.

PECO requests an effective date of January 14, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to NiMo and to the Pennsylvania Public Utility Commission.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

37. PECO Energy Company

[Docket No. ER97–1420–000]

Take notice that on January 23, 1997, PECO Energy Company (PECO) filed a Service Agreement dated January 14, 1997, with Central Vermont Public Service Corporation (CVPS) under PECO's FERC Tariff Original Volume No. 5 (Tariff). The Service Agreement adds CVPS as a customer under the Tariff.

PECO requests an effective date of January 14, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to CVPS and to the Pennsylvania Public Utility Commission.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

38. Boston Edison Company

[Docket No. ER97–1421–000]

Take notice that on January 23, 1997, Boston Edison Company (Boston Edison) tendered for filing a Service Agreement and Appendix A under Original Volume No. 6, Power Sales and Exchange Tariff (Tariff) for Montaup Electric Company (Montaup). Boston Edison requests that the Service Agreement become effective as of January 1, 1997.

Boston Edison states that it has served a copy of this filing on Montaup and the Massachusetts Department of Public Utilities.

Comment date: February 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

39. The United Illuminating Company

[Docket No. OA97–506–000]

Take notice that on January 24, 1997, The United Illuminating Company (''UI'') tendered for filing a Request for Clarification or, In the Alternative, for Limited Waiver of the Standards of Conduct in Order No. 889, Docket No. RM95–9–000, 61 Fed. Reg. 21,737 (May 10, 1996), FERC Stats. and Regs. ¶ 31,037 (1996), *reh'g pending.*

Comment date: February 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

40. Allegheny Power Service Corp. on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. OA97–507–000]

Take notice that on January 27, 1997, Allegheny Power Service Corporation on behalf of Monongahela Power Company and West Penn Power Company (Allegheny Power) filed a compliance filing, as required by Order 888, to unbundle generation and transmission services for future economy transactions under an existing Interconnection Agreement with the PJM Companies. Allegheny Power requests an effective date of December 31, 1996.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: March 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

41. Texas-New Mexico Power Company

[Docket No. OA97–512–000]

Take notice that on January 29, 1997, Texas-New Mexico Power Company (TNP) tendered for filing a statement of partial compliance with Order No. 889 and a request for a partial waiver and exemption from requirements of Order No. 889.

Comment date: February 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

42. People's Electric Cooperative

[Docket No. OA97–513–000]

Take notice that on January 28, 1997, People's Electric Cooperative filed in the above-referenced docket a request pursuant to Section 35.28(e) of the Commission's Regulations for a waiver of compliance with the requirements of Order No. 888 on or before January 21, 1997.

Comment date: March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

43. Lafayette Utilities System

[Docket No. OA97–514–000]

Take notice that on January 28, 1997, Lafayette Utilities System tendered for filing a partial waiver of the requirements of Orders Nos. 888 and 889.

Comment date: March 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

44. Pacific Gas & Electric Company

[Docket No. OA97–515–000]

Take notice that on January 29, 1997, Pacific Gas & Electric Company tendered for filing its procedures for implementing the OASIS and related Standards of Conduct.

Comment date: February 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

45. ESI Calistoga GP, Inc. and Caithness Geysers, Inc.

[Docket No. QF81–7–005]

On January 31, 1997, ESI Calistoga GP, Inc. and Caithness Geysers, Inc. of 11760 U.S. Highway One, Suite 600, North Palm Beach, Florida 33408 and The Grace Building, 1114 Avenue of the Americas, New York, N.Y. 10036–7790, respectively submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicants, the geothermal-fueled facility is located in

Lake County, California. The Commission previously certified the facility as a 80 MW small power production Electric Company. According to the applicant, the recertification is requested to report a change in the ownership of the facility.

Comment date: February 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3591 Filed 2–12–97; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5689–1]

Agency Information Collection Activities Under OMB Review; Standards of Performance for New Stationary Sources NSPS Subpart KK—Lead Acid Battery Manufacturing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) for NSPS Subpart KK, lead acid battery manufacturing plants, described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 17, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1072.05.

SUPPLEMENTARY INFORMATION:

Title: NSPS Subpart KK—Lead Acid Battery Manufacturing Plants (OMB Control No. 2060.0081; EPA ICR No. 1072.05). This is a request for an extension of a currently approved collection.

Abstract: Lead acid battery manufacturing plants emit lead particulates in quantities that, in the Administrator's judgment cause or contribute to air pollution that may endanger public health or welfare. Consequently, New Source Performance Standards to limit particulate emissions were promulgated for this source category. The recordkeeping and reporting requirements associated with this rule enable the Agency to: identify sources subject to the standard; ensure initial compliance with the emission limits; and verify continuous compliance. Responses to this collection of information are mandatory under the authority of Section 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined not to be private. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on August 30, 1996 (61 FR 45959).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. Under this standard, reporting requirements apply only to new sources. Since no new facilities are expected to commence operation over the next three years, there is no anticipated reporting burden to this industry. Recordkeeping is limited to start-up, shutdown and malfunction events.

Respondents/Affected Entities: Owners or Operators of Lead Acid Battery Mfg Plants.

Estimated Number of Respondents: 82.

Frequency of Response: 1 year.

Estimated Total Annual Hour Burden: 123 hours.

Estimated Total Annualized Cost Burden: $4,310.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1072.05 and OMB Control No. 2060–0081 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: February 10, 1997.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 97–3647 Filed 2–12–97; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–00209; FRL–5588–7]

Forum on State and Tribal Toxics Action (FOSTTA) Projects; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The four projects of the Forum on State and Tribal Toxics Action (FOSTTA) will hold meetings

open to the public at the time and place listed below in this notice. The public is encouraged to attend the proceedings as observers. However, in the interest of time and efficiency, the meeting is structured to provide maximum opportunity for state, tribal, and EPA invited participants to discuss items on the predetermined agenda. At the discretion of the chair of the project, an effort will be made to accommodate participation by observers attending the proceedings.

DATES: The four projects will meet March 3, 1997, from 8 a.m. to 5 p.m., with a plenary session on Endocrine Disruptors from 8 a.m. to 9 a.m., and on March 4, 1997, from 8 a.m. to noon.

ADDRESSES: The meetings will be held at The Holiday Inn, 480 King St., Alexandria, VA, in Old Town.

FOR FURTHER INFORMATION CONTACT: Darlene Harrod, Designated Federal Official (DFO), Office of Pollution Prevention and Toxics (7408), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 260–6904, e-mail: harrod.darlene@epamail.epa.gov. Any observer wishing to speak should advise the DFO at the telephone number or e-mail address listed above no later than 4 p.m. on February 27, 1997.

SUPPLEMENTARY INFORMATION: FOSTTA, a group of state and tribal toxics environmental managers, is intended to foster the exchange of toxics-related program and enforcement information among the states/tribes and between the states/tribes and EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and Office of Enforcement and Compliance Assurance (OECA). FOSTTA currently consists of the Coordinating Committee and four issue-specific projects. The projects are the: (1) Toxics Release Inventory Project; Pollution Prevention Project; (3) Chemical Management Project; and (4) Lead (Pb) Project.

List of Subjects

Environmental protection.

Dated: February 5, 1997.

Susan B. Hazen,

Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–3514 Filed 2–12–97; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5687–5]

Notice of Open Meeting: State Voluntary Cleanup Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: The Agency will solicit input from a broad array of stakeholders on the key principles for adequate state voluntary cleanup programs. These principles will be used in the development of a draft state voluntary cleanup program guidance which will be issued for public comment. Approximately 25 stakeholders have been invited by EPA to give oral testimony at the meeting. The stakeholders include the State and local governments, industry, citizens, environmental and health organizations and members of the National Environmental Justice Advisory Committee (NEJAC). Additional information about this meeting will be made available on our World Wide Web home page at the following address: http://es.inel.gov/oeca/osre.html.

DATES: The meeting will take place on Thursday, February 27, 1997, at the Ritz-Carlton Hotel, 2100 Massachusetts Ave. N.W., Washington, DC 20008. It will begin at 9 a.m and end at 4:30 p.m. An agenda will be distributed at the meeting.

PUBLIC PARTICIPATION: The meeting will be open to the public and, as needed, one hour at the end of the day will be set aside for oral comments or questions. Approximately seventy-five seats will be available for the public including five seats reserved for the media. Seats will be available on a first-come first-served basis.

FOR FURTHER INFORMATION CONTACT: Bruce Pumphrey, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 401 M St. S.W., 2273–A, Washington, DC 20460, Telephone: 202–564–5106, E-mail: Pumphrey.bruce @epamail.epa.gov.

Dated: February 6, 1997.

Barry N. Breen,

Director, Office of Site Remediation Enforcement.

[FR Doc. 97–3521 Filed 2–12–97; 8:45 am]

BILLING CODE 6560–50–P

[OPP–64032; FRL 5585–3]

Notice of Receipt of Request for Amendments to Delete the use of Flowable Carbofuran on Grapes and Strawberries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by FMC Corporation, the sole US registrant, to delete the use of the pesticide flowable carbofuran on grapes and strawberries.

DATES: Unless the request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on May 14, 1997. FMC has waived the 180 days allowed under the Food Quality Protection Act of 1996.

FOR FURTHER INFORMATION CONTACT: By mail: Niloufar Nazmi-Glosson, Office of Pesticide Programs (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number, and e-mail: Room 3–W43, Crystal Station #1, 2800 Crystal Drive, Arlington, VA, (703) 308–8028; e-mail: nazmi-glosson.niloufar@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the Federal Register. Thereafter, the Administrator may approve such a request.

II. Background

In August of 1995, EPA advised FMC Corporation of its concern for the acute avian risk posed by the use of flowable carbofuran. The Agency's concern was based on field reports and laboratory evidence of bird kills due to carbofuran use and misuse. In response to the Agency's concern, FMC Corporation has agreed to implement a number of measures intended to reduce the risk of flowable carbofuran to birds. Among these measures is the voluntary cancellation of flowable carbofuran use on grapes and strawberries.

III. Intent to Delete Uses

This notice announces receipt by the Agency of an application from FMC Corporation, to delete uses under section 3 or 24(c) of FIFRA. FMC submitted applications to amend its granular carbofuran registrations on June 15, 1996. These registrations are listed by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Registration No.	Product Name	Active Ingredient	Delete From Label
279–2876	Furadan 4F Insecticide/Nematicide	Carbofuran	Grapes and strawberries
CA–820076			
CT–940002			
ME–880004			
MI–920003			
MN–830013			
MO–890002			
NH–820004			
OH–900001			
PA–890003			
TN–870008			
VA–840007			
VT–800009			
AZ–890018			
OR–850024			
WA–820041			
CA–850059			

Users of this product who desire continued use on the crops being deleted should contact both the EPA contact person listed above, and the registrant at the following address: Dr. Don Carlson, FMC Corporation, Agricultural Chemicals Group, 1735 Market Street, Philadelphia, PA 19103; telephone: (215) 299–6436, to discuss withdrawal of the application for amendment before May 14, 1997. It should be noted however, that because these deletions are being proposed to reduce avian risk, it is incumbent on any proponent of further use to demonstrate that further use will not pose unreasonable risk to bird species. This 90–day comment period will also permit other interested members of the public to comment prior to the Agency's approval of the deletions.

IV. Existing Stocks Provisions

The Agency authorizes FMC Corporation to sell and distribute product labeled for use on grapes and strawberries for a period of 12 months after approval of the revision. Remaining stocks of flowable carbofuran labeled for use on grapes and strawberries in the hands of growers and distributors may be used until such stocks are depleted.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: January 31, 1997.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 97–3516 Filed 2–12–97; 8:45 am]

BILLING CODE 6560–50–F

[OPP–340107; FRL 5585–6]

Notice of Receipt of Requests for Amendments to Delete uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on August 12, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the Federal Register. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 10 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before August 12, 1997 to discuss withdrawal of the applications for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
000228–00267	Riverdale MCPA 10E	MCPA, isooctyl ester	Rice, aquatic food uses, aquatic non-food uses
000279–01380	Thiodan 50 WP Insecticide	Endosulfan	Alfalfa (grown for forage), artichokes, barley, oats, rye, wheat, peas (seed crop only), safflower, sunflower, sugar beets
000279–02149	Methyl Parathion 2 Thiodan 3 EC	Endosulfan; Methyl Parathion	Broccoli, celery, lettuce, potatoes
000279–02306	Endosulfan Technical Insecticide	Endosulfan	Alfalfa (grown for forage), artichokes, barley, oats, rye, wheat, peas (seed crop only), safflower, sunflower, sugar beets
000279–02609	Methyl Parathion 1.0 Thiodan 2.0 C.O. EC	Endosulfan; Methyl Parathion	Artichokes, broccoli, celery, lettuce
000279–02659	Thiodan 2 C.O. EC Insecticide	Endosulfan	Artichokes, barley oats, rye, wheat, broccoli, celery, cherries, corn (seed crop only), potatoes, safflower, sunflower, sugar beets, sweet corn, sweet potatoes
000279–02735	Thiodan Pyrenone C.O. Insecticide	Endosulfan; Piperonyl butoxide; Pyrethrins	Artichokes, celery, cucumbers, melons, pumpkin, summer and winter squash, eggplant, lettuce, peppers, potatoes, sweet corn; field tomatoes
000279–02822	Thiodan 2 Pyrenone 0.3–0.03 EC Insecticide	Endosulfan; Piperonyl butoxide; Pyrethrins	Alfalfa (grown for forage), artichokes, barley, oats, rye, wheat, broccoli, celery, cherries, corn (seed crop only), cucumbers, melon, pumpkin, summer & winter squash, eggplant, grapes, lettuce, peas (seed crop only), peppers, potatoes, safflower, sunflower, sugar beets, sweet corn, field tomatoes
000279–02924	Thiodan 3 EC Insecticide	Endosulfan	Alfalfa (grown for forage), artichokes, barley, oats, rye, wheat, peas (seed crop only), safflower, sunflower, sugar beets
000279–03129	Thiodan WSB Insecticide	Endosulfan	Alfalfa (grown for forage), artichokes, barley, oats, rye, wheat, peas (seed crop only), safflower, sunflower, sugar beets

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000228	Riverdale Chemical Co., 425 West 194th Street, Glenwood, IL 60425.
000279	FMC Corporation, 1735 Market Street, Philadelphia, PA 19103.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: February 3, 1997.

James H. Kearns,

Acting Director, Program Management and Support Division, Office of Pesticide Programs.

[FR Doc. 97–3515 Filed 2–12–97; 8:45 am]

BILLING CODE 6560–50–F

[PF–710; FRL–5588–9]

Appropriate Technology Limited; Pesticide Tolerance Petition Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of a regulation for an exemption from the requirement of a tolerance for residues of extract from *Quercus falcata* (red oak), *Rhus aromatic* (sumac), *Rhizophora mangle* (mangrove), and *Opuntia lindheimeri* (prickly pear cactus) in or on all raw agricultural commodities. The summary was prepared by Appropriate Technology Limited.

DATES: Comments, identified by the docket number [PF–710], must be received on or before, April 14, 1997.

ADDRESSES: By mail, submit written comments to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. In person, bring comments to RM 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Comments and data may also be submitted electronically be sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by docket number [PF–710]. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Teung F. Chin c/o (PM 90), Biopesticides and Pollution Prevention Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: 5th floor, CS#1, 2800 Crystal Drive, Arlington, VA 22202, Telephone No. 703–308–1259, e-mail: chin.teung@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition (PP 8F3635) from Appropriate Technology Limited, 3601 Garden Brook, Dallas, TX 75234 proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance the residues of Plant Extract 620. Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Appropriate Technology Limited has submitted the following summary of information, data and arguments in support of their pesticide petition. This summary was prepared by Appropriate Technology Limited and EPA has not fully evaluated the merits of the petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous to clarify that the conclusions and arguments were the petitioner's and not necessarily EPA's and to remove certain extraneous material, or the summary was not clear that it reflected the conclusion of the petitioner and not necessarily EPA.

I. Petition Summary

A. Product Identity/Chemistry

Appropriate Technology Limited states that Plant Extract 620 is an aqueous extract derived from *Quercus falcata* (red oak), *Rhus aromatic* (sumac), *Rhizophora mangle* (mangrove), and *Opuntia lindheimeri* (prickly pear cactus). The resulting botanical extracts are used in the preparation of end-use formulations. Agrispon® and Sincocin® are water-based products containing trace minerals and Plant Extract 620. Agrispon® is a plant growth regulator that may be applied to turf and agricultural products to stimulate root growth and increase a plant's ability to withstand pests and environmental stresses. Sincocin® is used to control plant parasitic nematodes by reducing the feeding vigor of nematodes.

Studies submitted by Appropriate Technology Limited show that the identified active constituents known to be present in the subject plant extracts are present naturally in many plants and would, therefore, be indistinguishable from existing natural background levels. This petition proposes an exemption for the requirement of a tolerance; therefore, Appropriate Technology Limited does not believe an analytical method is necessary to protect the human health and environment.

B. Proposed Use Practices

Plant extract from *Quercus falcata, Rhus aromatic, Rhizophora mangle,* and *Opuntia lindheimeri* is the sole active ingredient in the end-use products Agrispon and Sincocin. Both products are mixed with enough water to evenly cover the desired area at the recommended rate of application. The maximum recommended application rate for any use pattern would not exceed 60 grams of plant extract/acre/application; the maximum application rate for food crops would not exceed 18 grams of plant extract/acre/application.

Agrispon® is diluted with water to evenly cover the desired area at an application rate of 13 fluid ounces/acre (oz/acre) for annuals, and greenhouses. The recommended timing and frequency of applications depends on the plant growth cycle length. A single application is recommended for plants with a growth cycle of 60 days or less. A second application, 45 to 60 days after the first, is recommended for plants with a growing cycle of 60 to 120 days. For long season plants, or those having a growing cycle longer than 120 days, Agrispon® may be applied every 45 to 60 days during the period when the plant is growing vigorously. Agrispon® is applied to the soil surface under trees at a rate of 13 fluid oz/acre, with an additional 6 fluid oz/acre applied to the tree canopy. For evergreens, applications are recommended every 60 days. Deciduous trees should first be treated at bud break or leaf flush in the spring. Subsequent applications are recommended every 60 days until dormancy occurs.

Sincocin® is applied to food crops and orchards at a rate of 26 fluid ounces/acre. For both food crops and orchards, the first application should be made during initial root flush with subsequent applications every 60 days during active growth. The application rate for turf and ornamentals is 2.75 gallons (87 fluid ounces)/acre. Golf greens and tee boxes should be treated every day for root pathogens or every 30 days for nematode control. Golf fairways should be treated every 30 days. Ornamentals should first be treated at root flush, with subsequent applications every 30 to 60 days during active growth.

C. Toxicological Profile

Plant Extract 620 is derived from *Quercus falcata* (red oak), *Rhus aromatic* (sumac), *Rhizophora mangle* (mangrove), and *Opuntia lindheimeri* (prickly pear cactus). Plant Extract 620 will not itself be offered for sale, but is used by the manufacturer in formulating the end-use products Agrispon® and Sincocin® . Agrispon® and Sincocin® are the only products to which consumers and the public could be exposed. The following table summarizes the toxicological data Appropriate Technology Limited has submitted in support of the exemption from the requirement of a tolerance:

Study	Product	Result	Toxicity Category
Acute Oral	Plant Extract 620	LD_{50} >5,000 mg/kg	IV
Acute Dermal	Plant Extract 620	LD_{50} >5,000 mg/kg	IV
Acute Inhalation	Sincocin®	LD_{50} >2.04 mg/l	IV
Eye Irritation	Plant Extract 620	unwashed eyes: severely irritating	I
		washed eyes: moderately irritating	III
	Agrispon®	unwashed eyes: minimally irritating	IV
	Sincocin®	unwashed eyes: minimally irritating	IV
Dermal Irritation	Plant Extract 620	moderately irritating	III
Ames Mutagenicity	Agrispon®	not mutagenic	n/a
	Sincocin®	not mutagenic	n/a

Appropriate Technology Limited states that Agrispon® and Sincocin®, the products that will be available for distribution, are toxicity categories III and IV for all routes and responses. Based on the results of the acute toxicology and mutagenicity data summarized above, the Agency has determined that all toxicology data requirements have been satisfied. Subchronic, chronic, immune, endocrine, and non-dietary cumulative exposure data requirements have been waived. Appropriate Technology Limited believes the submitted data are sufficient to demonstrate that there are no foreseeable human health hazards likely to arise from the use of either Agrispon® or Sincocin®.

D. Aggregate Exposure

Occupational exposure will be mitigated through the use of proper personal protective equipment. Appropriate Technology Limited believes the lack of mammalian toxicity and low active ingredient concentration of the end-use products illustrate that health risks resulting from inhalation and dermal exposure of applicators and other handlers is negligible.

Appropriate Technology Limited states that dietary exposure will be extremely small due to the low application rate of 18 grams/acre or less, washing off of foliage and fruit by rainfall or during food processing and handling, and likely by degradation of the plant extracts by soil microflora. Furthermore, the oral toxicity of Plant Extract 620 is so low that Appropriate Technology Limited asserts that any foreseeable residues would be of little consequence.

Appropriate Technology Limited states that exposure to drinking water will be minimal. Neither Agrispon® or Sincocin® will be applied directly to water. The active ingredient concentration of any potential spray drift will be extremely minimal due to the low active ingredient concentration. The active ingredient concentration of both products is 0.56% and the products are diluted with water prior to application, further reducing the concentration. Additionally, the subject plant extracts are of natural origin and therefore subject to degradation by soil microorganisms. Finally, if residues of Plant Extract 620 do occur in drinking water, Appropriate Technology Limited believes that toxicity data demonstrate that there is no foreseeable human health hazard.

E. Cumulative Effects

Appropriate Technology Limited believes that none of the active constituents are known or suspected to have any cumulative effect. The water solubility of the constituents in this aqueous extract are likely to be easily excreted resulting in no tissue accumulations. Furthermore, there is no indication of mammalian toxicity.

F. Safety Determination

Appropriate Technology Limited believes the toxicology data are sufficient to demonstrate that there are no foreseeable human health hazards likely to arise from the use of plant extracts derived from *Quercus falcata, Rhus aromatic, Rhizophora mangle,* and *Opuntia lindheimeri.* Furthermore, the identified active ingredients known to be present in these plant extracts are present naturally in many plants.

G. Existing Tolerances

No tolerances or tolerance exemptions have previously been granted for extracts from *Quercus falcata, Rhus aromatic, Rhizophora mangle,* and *Opuntia lindheimeri.*

II. Public Record

Interested persons are invited to submit comments on this notice of filing. Comments must bear a notation indicating the document control number, [PF–710].

A record has been established for this notice under docket number [PF–710] including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp=Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

List of Subjects

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

Dated: February 6, 1997.

Janet L. Anderson,

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

[FR Doc. 97–3517 Filed 2–12–97; 8:45 am]
BILLING CODE 6560–50–F

[PF-708; FRL-5587-3]

ISK Biosciences Corporation; Pesticide Tolerance Petition Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing.

SUMMARY: This notice announces the filing of a pesticide petition proposing the establishment of a regulation for residues of chlorothalonil in or on almonds and almond hulls. The notice includes a summary of the petition prepared by the petitioner, ISK Biosciences Corporation.

DATES: Comments, identified by the docket number [PF-708], must be received on or before March 17, 1997.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by docket number [PF-708]. Electronic comments on this notice of filing may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit II. of this document.

Information submitted as comments concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM 22), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, Room 229, 1921 Jefferson Davis Highway, Arlington, VA, 703-305-7740, e-mail: giles-parker.cynthia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition (PP 5F4558), originally published in the Federal Register on November 15, 1995 (60 FR 57419) (FRL-4971-5), from ISK Biosciences Corporation (''ISK''), 5966 Heisley Road, P.O. Box 8000, Mentor, Ohio 44061, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR 180.275 by establishing tolerances for residues of the fungicide chlorothalonil and its metabolite, 4-hydroxy-2,5,6-trichloroisophthalonitrile (SDS-3701) in or on the raw agricultural commodity (RAC) almonds (nutmeats) at 0.05 parts per million (ppm) and almond hulls at 1.0 ppm. The proposed analytical method is by electron capture gas chromatography. EPA has determined that the petition contains data or information regarding the elements set forth in section 408 (d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

As required by section 408(d) of the FFDCA, as recently amended by the Food Quality Protection Act (FQPA) Pub. L. 104-170, ISK included in the petition a summary of the petition and authorization for the summary to be published in the Federal Register in a notice of receipt of the petition. The summary represents the views of ISK. EPA is in the process of evaluating the petition. As required by section 408(d)(3) of the FFDCA, EPA is including the summary as a part of this notice of filing. EPA has made minor edits to the summary for the purpose of clarity.

I. Petition Summary

A. Residue Chemistry Data

1. *Plant/animal metabolism.* The nature of the residue of chlorothalonil in plants and animals, including ruminants, is well understood. Chlorothalonil is not systemic in plants. Any chlorothalonil residue found on almond nutmeats occurs as a surface residue from transfer of the residue during harvesting and shelling operations. Chlorothalonil is rapidly metabolized in the ruminant and is not transferred to meat and milk from the dietary consumption by animals. Furthermore, chlorothalonil is not stable in meat or milk.

2. *Analytical method.* An adequate analytical method (gas chromatography) is available for enforcement purposes. The method is listed in the Pesticide Analytical Manual, Vol. II (PAM II).

3. *Magnitude of the residues.* Residue data from studies conducted with almonds support a tolerance of 0.05 ppm for combined residues of chlorothalonil and its metabolite, 4-hydroxy-2,5,6-trichloroisophthalonitrile in/on almond nutmeats and 1.0 ppm in/on almond hulls. Residues of chlorothalonil on plants are surface residues. Nutmeats are not systemically exposed to chlorothalonil since chlorothalonil is not a systemic fungicide in plants. Chlorothalonil residues are not directly translocated to the nutmeats, but residues from the hulls that contaminate the almond shells during harvest may be transferred to the nutmeats during the shelling process.

B. Toxicological Profile

The following studies on file with the Agency support this petition.

1. *Acute toxicity.* Acute toxicity studies include an acute oral rat study on technical chlorothalonil with an LD_{50} >10,000 milligram/kilogram (mg/kg), an acute dermal toxicity study in the rabbit with an LD_{50} >20,000 mg/kg, a 4-hour inhalation study with finely ground technical chlorothalonil resulting in a LC_{50} of 0.092 mg/L (actual airborne concentration), a primary eye irritation study with irreversible eye effects in the rabbit at 21 days, a primary dermal irritation study showing technical chlorothalonil is not a dermal irritant, and a dermal sensitization study showing technical chlorothalonil is not a skin sensitizer.

2. *Genotoxicity.* The mutagenic potential of chlorothalonil has been evaluated in a large number of studies covering a variety of endpoints. ISK concludes that chlorothalonil is not mutagenic.

Mutagenicity studies with chlorothalonil include gene mutation assays in bacterial and mammalian cells; *in vitro* and *in vivo* chromosomal aberration assays; DNA repair assays in bacterial systems; and cell

transformation assays. All were negative with the following two exceptions:

i. Chlorothalonil was positive in an *in vitro* chromosomal aberration assay in CHO cells without metabolic activation but was negative with metabolic activation.

ii. *In vivo* chromosomal aberration studies in rats and mice were negative and one study in the Chinese hamster was equivocal. The results of this study could not be confirmed in a subsequent study at higher doses. The conclusion was that chlorothalonil does not cause chromosome aberrations in bone marrow cells of the Chinese hamster. It can be concluded that chlorothalonil does not have clastogenic potential in intact mammalian systems.

In bacterial DNA repair tests chlorothalonil was negative in *Bascillus subtilis*, but was positive in *Salmonella typhimurium*. In an *in vivo* DNA binding study in rats, with ^{14}C-chlorothalonil, there was no covalent binding of the radiolabel to the DNA of the kidney, which is the target organ for chlorothalonil toxicity in rodents.

3. *Developmental and reproductive toxicity.* A developmental toxicity study with rats given gavage doses of 0, 25, 100, and 400 mg/kg body weight (bwt)/day from days 6 through 15 of gestation resulted in a no observed effect level (NOEL) for maternal toxicity of 100 mg/kg/day based on increased mortality, reduced body weight, and a slight increase in early resorptions at the highest dose. There were no developmental effects observed at any dose in this study.

A developmental toxicity study in rabbits given gavage doses of 0, 5, 10, or 20 mg/kg/day on days 7 through 19 of gestation resulted in a maternal NOEL of 10 mg/kg/day. Effects observed in the dams in the high-dose group were decreased body weight gain and reduced food consumption. There were no developmental effects observed in this study.

A 2-generation reproduction study in rats fed diets containing 0, 500, 1,500 and 3,000 ppm resulted in a reproductive NOEL of 1,500 ppm (equivalent to 115 mg/kg/day) based on lower neonatal body weights by day 21. There were no effects seen on any other reproductive parameter at any dose level in this study.

4. *Subchronic toxicity.* i. A 90-day subchronic toxicity study was conducted in rats at doses of 0, 1.5, 3.0, 10, and 40 mg/kg bwt. Treatment related hyperplasia and hyperkeratosis of the forestomach was observed at the two highest dose levels. Although the initial histopathological evaluation did not demonstrate any nephrotoxicity, a subsequent evaluation observed a treatment-related increase in hyperplasia of the proximal tubule epithelium at 40 mg/kg bwt in the male rats but not in the females. The NOEL for renal histopathology was 10 mg/kg bwt in males and 40 mg/kg bwt in females.

ii. A 90-day oral toxicity study was conducted in dogs with dose levels of technical chlorothalonil of 15, 150, and 750 mg/kg bwt/day. The two highest dosages resulted in lower body weight gain in male dogs. The NOEL was 15 mg/kg/day. There were no macroscopic or microscopic tissue alterations related to chlorothalonil and there were no signs of renal toxicity.

iii. Two 21-day dermal toxicity studies have been conducted with technical chlorothalonil. In the initial study, doses of 50, 2.5, and 0.1 mg/kg bwt/day were administered to rabbits. The NOEL for systemic effects was greater than 50 mg/kg bwt/day and the NOEL for dermal irritation was 0.1 mg/kg bwt/day.

A subsequent 21-day dermal study was conducted in male rats to specifically evaluate the potential for nephrotoxicity in this laboratory species following dermal dosing. In this study the doses were 60, 100, 250, and 600 mg/kg bwt/day. The NOEL for nephrotoxicity was greater than 600 mg/kg bwt/day.

5. *Estrogenic effects.* Based upon all of the chronic toxicity, teratogenicity, mutagenicity, and reproductive studies conducted with chlorothalonil and its metabolites, ISK concludes that there were no results which indicate any potential to cause estrogenic effects or endocrine disruption. These effects would have manifested themselves in these studies as reproductive or teratogenic effects or by producing histopathological changes in estrogen sensitive tissues such as the uterus, mammary glands, or the testes. Thus, ISK concludes based upon the *in vivo* studies, that chlorothalonil does not cause estrogenic effects.

6. *Chronic toxicity.* i. A 12-month chronic oral toxicity study in Beagle dogs was conducted with technical chlorothalonil at dose levels of 15, 150, and 500 mg/kg/day. The NOEL was 150 mg/kg/day based on lower blood albumin levels at the highest dose. There was no nephrotoxicity observed at any dose in this study. This study replaced an old outdated study that was not conducted under current guidelines and did not use the current technical material.

ii. A chronic feeding/carcinogenicity study with Fischer 344 rats fed diets containing 0, 800, 1,600 or 3,500 ppm (equivalent to 0, 40, 80 or 175 mg/kg bwt/day) for 116 weeks in males or 129 weeks in females, resulted in a statistically higher incidence of combined renal adenomas and carcinomas. At the high dose, which was above the MTD, there was also a statistically significant higher incidence of tumors of the forestomach in female rats.

iii. In a second chronic feeding/carcinogenicity study with Fischer 344 rats, designed to define the NOEL for tumors and the preneoplastic hyperplasia, animals were fed diets containing 0, 2, 4, 15 or 175 mg/kg/day. The NOEL in this study, based on renal tubular hyperplasia, was a nominal dose of 2 mg/kg bwt/day. Because of the potential for chlorothalonil to bind to diet the 2 mg/kg bwt/day dose, expressed as unbound chlorothalonil, is 1.8 mg/kg bwt/day. The NOEL for hyperplasia and hyperkeratosis of the forestomach was 4 mg/kg bwt/day or a dose of 3.8 mg/kg bwt/day based on unbound chlorothalonil.

iv. A 2-year carcinogenicity study, conducted in CD-1 mice at dietary levels of 0, 750, and 1,500 or 3,000 ppm (equivalent to 0, 107, 214 or 428 mg/kg/day), resulted in a statistically higher incidence of squamous cell carcinomas of the forestomach in both sexes and a statistically higher incidence of combined renal adenomas/carcinomas in only the male mice receiving the low dose. There were no renal tumors in any female mouse in this study.

v. A 2-year carcinogenicity study, in male CD-1 mice for the purpose of establishing the NOEL for renal and forestomach effects, was conducted at dietary levels of 0, 10/15, 40, 175, or 750 ppm (equivalent to 0, 1.4/2.1, 5.7, 25 or 107 mg/kg/day). The NOEL for renal effects was 40 ppm and the NOEL for forestomach effects was 15 ppm. This study did not duplicate the results from the previous study where a statistically higher incidence of renal tumors, when compared to controls, was observed at 750 ppm.

In 1987, the Office of Pesticide Programs' Toxicology Branch Peer Review Committee classified chlorothalonil as a B2 (probable human carcinogen) based on evidence of carcinogenicity in the forestomach and kidneys of rats and mice. The Agency currently regulates chlorothalonil as a B2 carcinogen although ISK has provided a significant amount of mechanistic data indicating that the tumors result from a threshold mechanism. A potency factor, Q1* (Q1

star), of 0.00766 (mg/kg/day)[1] has been used by the Agency when conducting mathematical modeling to estimate carcinogenic risk to man. ISK believes that because the nephrotoxicity seen in the rat is due to a threshold mechanism, any risk associated with chlorothalonil can be managed using the margin of safety (exposure) approach.

Numerous metabolism and toxicology studies indicate that chlorothalonil is non-genotoxic and produces a species-specific renal toxicity in the rat that eventually may lead to tumor formation through an epigenetic mechanism. Studies comparing metabolism and toxicological effects in dogs with those in rats demonstrate that the renal effects observed in the rat are due to the exposure of the kidney of the rat to significant levels of nephrotoxic thiol metabolites of chlorothalonil. In the dog, no thio metabolites are found and there are no toxic effects seen in kidneys of dogs dosed with high levels of chlorothalonil.

7. *Reference dose (RfD).* The NOEL for chlorothalonil in the rat is 1.8 mg/kg bwt based on the nephrotoxicity observed in the chronic rat study. The NOEL in the dog was 15 mg/kg bwt in the 90-day study and 150 mg/kg bwt based on the 1-year study. NOEL for maternal toxicity from developmental studies are 10 mg/kg bwt in rabbits and 100 mg/kg bwt in the rat. The NOEL for pup growth in the reproduction study was 1,500 mg/kg bwt, which would be most conservatively estimated as equating to approximately 75 mg/kg bwt. Data indicate that the nephrotoxicity in the rat is produced through a mechanism for which there is a clear threshold. In a study which measured cell turnover in the rat kidney with proliferating cell nuclear antigen (PCNA) immunohistochemical staining, a NOEL was established at 1.5 mg/kg bwt. Other chronic studies have established the NOEL for hyperplasia in the kidney to be 1.8 mg/kg bwt. If all the available toxicity data in laboratory animals are considered without regards to its applicability to humans, the lowest NOEL for any adverse effect would be 1.5 mg/kg bwt/day. Because the mechanism of toxicity which is related to the tumor formation in the kidney has been shown to have a threshold, the use of the normal 100-fold safety factor in conjunction with the 1.5 mg/kg NOEL would produce a reference dose which would provide more than adequate safety for all of the possible effects seen in any laboratory animal.

In two recent reviews of chlorothalonil by the Joint Meeting of Pesticide Residue Experts (1990 and 1992) and the review by the World Health Organization's International Program for Chemical Safety, these esteemed groups concluded that the rat was not the appropriate species to use in consideration of the risk assessment for man. They concluded that the dog was the more appropriate species for determination of subchronic and chronic effects. If the toxicological data for the dog were used, the NOEL would be at least 15 mg/kg bwt, which is based on the most recent 90-day study of the dog.

Therefore, under the most conservative scenario (using the toxicological data in the rat), the reference dose would be 1.8 mg/kg bwt/day divided by a 100-fold safety factor or 0.018 mg/kg bwt/day with a threshold model being used for carcinogenic risk assessment. In the scenario that uses the toxicological data of the dog, the reference dose would be 15 mg/kg bwt/day divided by a safety factor of 100 or 0.15 mg/kg bwt/day.

C. Aggregate Exposure

The following is a description of the likelihood of exposure to chlorothalonil from various routes.

1. *Dietary exposure.*— i. *Food.* The Agency's Dietary Exposure Analysis dated April 1, 1996, of ISK's petition (PP 5F4558), which requested tolerances for chlorothalonil and its metabolite, 4-hydroxy- 2,5,6-trichloroisophthalonitrile (SDS-3701) in/on almond nutmeats and almond hulls, determined the dietary exposure from the proposed new anticipated residue contributed from almonds to be 0.000001 mg/kg bwt/day to the U.S. population and also to children ages 1 to 6.

The Agency had calculated that the exposure of the general population from existing published tolerances for chlorothalonil is 0.000133 mg/kg bwt/day and 0.00021 mg/kg bwt/day for infants and children ages 1 to 6. Unfortunately, the Agency's calculation of the total exposure contained a significant error. The Agency grossly overestimated the exposure from the use of chlorothalonil on mushrooms by using an anticipated residue of 2.54 ppm which constitutes an illegal residue. The tolerance is 1.0 ppm. There were also other overestimates of less magnitude in the April 1996 EPA document. ISK believes that the correct exposure, based on the current registered uses for chlorothalonil, is 0.0000642 mg/kg bwt/day for the general population and 0.000105 mg/kg bwt/day for infants and children 1 to 6 years of age.

ii. *Drinking water.* Chlorothalonil was included for monitoring in the National Survey of Pesticides in Drinking Water Wells conducted by EPA. No chlorothalonil residues were detected in any of the 1,300 community water systems and domestic wells (using methodology for chlorothalonil having a limit of detection (LOD) of 0.06 µg/l and limit of quantitation of 0.12 µg/l). The absence of chlorothalonil detections in the National Survey of Pesticides in Drinking Water Wells provides adequate information to conclude that chlorothalonil is not a contaminant in drinking water wells and that the population is not exposed to chlorothalonil in these water sources. These findings are consistent with the known physical/chemical properties of chlorothalonil including low water solubility (0.9 ppm) and high affinity for organic matter including soil. It has also been demonstrated that chlorothalonil does not leach into groundwater from applications made to growing crops.

Aerobic aquatic metabolism studies with chlorothalonil establish a half-life in natural aquatic habitats of less than 10 hours, depending on environmental conditions. Considering the short half-life of chlorothalonil in natural water/sediment systems and that surface water is filtered and treated prior to consumption, chlorothalonil is not likely to be present in drinking water obtained from natural surface water systems.

An exposure estimate, based on surface water concentration recently cited by EPA, would conclude that the average concentration in surface water would be less than 0.002 ppm. Assuming that everyone in the United States consumed untreated surface water, the exposure to chlorothalonil of the general population would be less than 5.8×10^{-7} mg/kg bwt/day. This would be a worse case scenario, which would greatly overestimate exposure.

2. *Non-dietary exposure.* Potential non-dietary exposures to chlorothalonil may result from the following uses of chlorothalonil. In each case, the exposure would be from the dermal route and only for an intermittent duration. The two 21-day dermal studies that have been conducted in the rabbit and rat indicate that there is no nephrotoxicity associated with the dermal exposure to chlorothalonil at dose levels up to 600 mg/kg/day. Therefore, the exposures from the uses of chlorothalonil listed below would not

[1] ''Mechanistic Interpretation of the Oncogenicity of Chlorothalonil in Rodents and an Assessment of Human Relevance,'' by Drs. C. F. Wilkinson and J. C. Killeen, Regulatory Toxicology and Pharmacology 24: 69-84 (1996), Article No. 006.

be expected to add to the carcinogenic risk associated with chlorothalonil.

i. *Golf course uses.* Chlorothalonil products are commonly applied to golf course trees and greens to control a broad complex of turf diseases. Application to golf course fairways is much less common. Golf is not a game played by infants or small children, therefore no exposure to infants and children would be anticipated.

ii. *Residential owner uses.* Applications of chlorothalonil products to home lawns are rare. Thus, there is very little exposure to chlorothalonil related to use on residential turf. Applications to roses and other ornamentals in home gardens is also a minor use of chlorothalonil.

iii. *Paint.* Chlorothalonil is used in paints and stains for control of mildew and molds on exterior surfaces of buildings. Chlorothalonil is also occasionally used for interior paints, but this use represents only a small proportion of the chlorothalonil used in paints. About 2% of the chlorothalonil used in paint is used in interior paint; however, only 0.2% or less of interior paints in the United States contain chlorothalonil. In paints chlorothalonil is tightly bound within the paint matrices; thus, effective control of mildew may last for several years and the potential for exposure is very limited.

iv. *Grouts.* Chlorothalonil is used in cement tile grouts and for control of mildew and molds. Chlorothalonil is bound within the grout matrices and very little is available for exposure. This is a minor use of chlorothalonil and non-occupational dermal exposure of humans to chlorothalonil from this source is extremely low.

v. *Wood treatment.* Chlorothalonil is not currently used for pressure-treating wood. It is used for control of sapstain as a surface treatment on rough-cut, newly-sawn lumber to protect it from molds and mildews while drying. Being a surface residue, it is removed during the finishing operations prior to sale of the wood. Chlorothalonil does not occur in structural wood used for residential or occupational scenarios.

D. Cumulative Effects

ISK has considered the potential for cumulative effects of chlorothalonil and other substances that have a common mechanism of toxicity. Chlorothalonil is a halogenated benzonitrile which readily undergoes displacement of the 2, 4 and 6 chlorines by glutathione and other thiol containing amino acids and proteins. In the rat, the thiol metabolites are sufficiently absorbed to produce a nephrotoxic effect. In dogs where this absorption does not occur, nephrotoxicity does not occur. ISK does not have any information to indicate that toxic effects observed in rats occur through a mechanism which is common to any other agricultural chemical. Thus, consideration of common mechanisms of toxicity is not appropriate at this time.

Chlorothalonil should not be confused with chlorinated hydrocarbon pesticides which have significantly different chemical and biological properties.

E. Safety Determination

1. *U.S. population.* In EPA's Dietary Exposure Analysis, dated April 1, 1996, for chlorothalonil and its metabolite in/on almond nutmeats and almond hulls, the Agency determined that the oncogenic dietary risks associated with potential exposure from anticipated residue of 0.05 ppm from almonds is minimal. The risk assessment concluded that chlorothalonil does not pose a significant chronic or acute dietary risk for uses that are currently published or for uses recommended by EPA for registration. Unfortunately, the Agency's calculation of the total exposure for existing published uses contained a significant error. The Agency grossly overestimated the exposure from the use of chlorothalonil on mushrooms by using an anticipated residue of 2.54 ppm which constitutes an illegal residue. The tolerance is 1.0 ppm.

The Agency has used a linearized model to estimate the carcinogenic risk associated with chlorothalonil, whereas ISK believes that a threshold based model is appropriate. If the linearized multistage model is used with the corrected exposure estimates for food presented earlier, the carcinogenic risk would be estimated at 4.9×10^{7} for the general population and 8.0×10^{7} for infants and children. Using the overestimated exposure estimates of EPA, with a threshold based model and using the conservative RfD of 0.018 mg/kg bwt/day, the margin of safety for the general population would exceed 10,000 and the margin of safety for infants and children would exceed 7,000. Using corrected exposure estimates would obviously yield larger margins of exposure. Using a conservative RfD of 0.018 mg/kg/day, as the Agency has done in recent Dietary Risk Evaluation System (DRES) analyses, and incorporating corrections needed in exposure values for mushrooms and several other lesser corrections, ISK calculated the overall dietary exposure to anticipated residues of chlorothalonil, from all registered uses and pending uses of chlorothalonil, to be 0.36% of the RfD for the general U.S. population and 0.59% of the RfD for children ages 1 to 6 years old, which is the group with the highest exposure.

Because the worse case assumption for human exposure from drinking water indicates that exposure would be only 1% of the dietary exposure, the risk assessment is not significantly altered by considering the exposure from drinking water.

2. *Infants and children.* There is a complete data base for chlorothalonil which includes pre- and post-natal developmental toxicity data as well as mechanistic data related to the rodent specific nephrotoxicity observed in subchronic and chronic studies. The toxicological effects of chlorothalonil in rodents are well understood. Chlorothalonil has a low level of toxicity in dogs.

In a 2-generation reproduction study in rats, all reproductive parameters investigated showed no treatment-related effects except pup weight gain. Specifically, the weights of pups exposed to chlorothalonil were comparable to controls at parturition through day four of lactation. It was only after day four of lactation, when the pups begin to consume the test diet, that body weight gain lags behind controls. This only occurred at the highest dose tested, which is 3,000 ppm. The dose of chlorothalonil the pups would receive would be far in excess of the estimated adult dose of 150 mg/kg bwt/day (3,000 ppm $^{-20}$). The doses for the pups could have easily exceeded 500 mg/kg bwt/day. Dose levels of 375 mg/kg bwt and above have been shown to significantly affect body weight in the rat. Therefore, the reduction of body weight gain observed in the reproduction study is considered to be comparable to the effects that have been observed in older rats. The NOEL for this effect was 1,500 ppm.

In developmental toxicity studies conducted in the rat and the rabbit, chlorothalonil did not cause any developmental effects even at dose levels that produced significant maternal toxicity. In the rabbit a dose level of 20 mg/kg bwt caused maternal toxicity, but there were no developmental effects and in the rat, a dose level of 400 mg/kg bwt caused maternal toxicity without developmental toxicity.

The extensive data base that is available for chlorothalonil is devoid of any indication that chlorothalonil would represent any unusual or disproportionate hazard to infants or children. Therefore, there is no need to impose an additional 10x safety factor

for infants or children. The standard uncertainty factor of 100x should be used for all segments of the human population when calculating risks associated with chlorothalonil.

F. International Tolerances

A maximum residue level has not been set for chlorothalonil on almonds by the Codex Alimentarius Commission.

II. Public Record

EPA invites interested persons to submit comments on this notice of filing. Comments must bear a notation indicating the docket number [PF-708].

A record has been established for this notice of filing under docket number [PF-708] including comments and data submitted electronically as described below. A public version of this record, including printed paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice of filing, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

List of Subjects

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

Dated: February 7, 1997.

Donald R. Stubb,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 97–3646 Filed 2–12–97; 8:45 am]
BILLING CODE 6560–50–F

[OPP–50825; FRL–5587–6]

Receipt of an Application for an Experimental Use Permit of a Plant-Pesticide

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: On November 15, 1996, EPA received an application from Rogers Seed Company for an experimental use permit (EUP) for the plant-pesticide *Bacillus thuringiensis* CryIA(b) delta-endotoxin and the genetic material (plasmid vector pZ01502) necessary for its production in corn. The Agency has determined that this application may be of regional and national significance. Therefore in accordance with 40 CFR 172.11(a), the Agency is soliciting public comments on this application.

DATES: Written comments must be received by March 17, 1997.

ADDRESSES: Written comments, in triplicate, should bear the docket control number OPP–50825 and be submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Crystal City, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''OPP–50825.'' No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Mike Mendelsohn, Regulatory Action Leader, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address:5th Floor, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA, (703) 308–8715, e-mail: mendelsohn.mike.@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On November 15, 1996, EPA received an EUP application from Rogers Seed Company, 600 N. Armstrong Pl., Boise, Idaho 83704. The EUP application is assigned EPA File Symbol 65268-EUP-R. Rogers Seed has applied to test sweet corn on a total of 7,730 acres in California, Florida, Georgia, Idaho, Iowa, Illinois, Kentucky, Maryland, Minnesota, Washington, and Wisconsin.

Upon review of the Rogers Seed application, any comments received in response to this notice and any other relevant information, the U.S. EPA will set conditions under which the experiments will be conducted. Any issuance of an EUP amendment approval will be announced in the Federal Register.

Dated: January 30, 1997.

Janet L. Andersen,

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

[FR Doc. 97–3519 Filed 2–12–97; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Review and Approval

February 7, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the

following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before March 17, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington, DC 20503 or fain__t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0397.

Title: Special Temporary Authority, Section 15.7(a).

Form No.: N/A.

Type of Review: Reinstatement without change of a previously approved collection.

Respondents: Businesses or others for profit.

Number of Respondents: 2.

Estimate Hour Per Response: 6 hours per response.

Total Annual Burden: 12 hours.

Needs and Uses: In exceptional situations, the Commission will consider an individual application for a special temporary authorization to operate a device not conforming with Part 15 of the Rules. Consideration will be given to an applicant who can demonstrate that the proposed operation would be in the public interest, that it is for a unique type of station or for a type of operation which is incapable of being established as a regular service, and that the proposed operation cannot feasibly be conducted under the Part 15 rules.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–3526 Filed 2–12–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Carnival Corporation, 3655 NW. 87th Avenue, Miami, Florida 33178–2193

Vessels: *Elation* and *Paradise*

Disney Cruise Vacations, Inc. and Magical Cruise Company, Limited, 210 Celebration Place, Celebration, Florida 34747

Vessels: *Disney Magic* and *Disney Wonder*

Dated: February 10, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–3581 Filed 2–12–97; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Filing an Application for Certificate (Performance)

Notice is hereby given that the following have filed an application for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. § 817(e)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

RiverBarge Excursion Lines, Inc., 201 Opelousas Avenue, New Orleans, Louisiana 70114

Vessel: *River Explorer*

Saga International Holidays, Ltd. and Saga Holidays Limited, The Saga Building, Middleburg Square, Folkestone CT20 1AZ, England

Vessel: *Saga Rose*

Dated: February 10, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–3580 Filed 2–12–97; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Showa Line Ltd., Showa Cruise Management Ltd., Magpie Shipping S.A. and Oceanic Cruise Ltd., 2–3 Ochisaiwaicho 2 Chome Chiyoda-ku, Tokyo 100, Japan

Vessel: *Oceanic Grace*

Dated: February 10, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–3582 Filed 2–12–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank

indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 10, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Bolivar Bancshares, Inc., Bolivar, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Bolivar, Bolivar, Missouri (in organization).

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. BancFirst Corporation, Oklahoma City, Oklahoma; to acquire 40 percent of the voting shares of First Ada Bancshares, Inc., Ada, Oklahoma, and thereby indirectly acquire First National Bank of Ada, Ada, Oklahoma. Ccomments regarding this application must be received no later than February 28, 1997.

2. Mid-America Bankshares, Inc., Baldwin City, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Esbon, Esbon, Kansas.

Board of Governors of the Federal Reserve System, February 7, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–3544 Filed 2–12–97; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 10, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Southeast Arkansas Bank Corporation, Lake Village, Arkansas; to acquire 95.2 percent of the voting shares of Jefferson County Bank of Fayette, Fayette, Mississippi.

Board of Governors of the Federal Reserve System, February 10, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–3620 Filed 2-12-97; 8:45 am]

BILLING CODE 6210-01-F

Federal Open Market Committee; Domestic Policy Directive of December 17, 1996.

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on December 17, 1996.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that economic activity has continued to expand at a moderate pace. Private nonfarm payroll employment increased appreciably further in November, although the civilian unemployment rate edged up to 5.4 percent. Industrial production rose sharply in November, in part because of a rebound in motor vehicle assemblies that had been depressed earlier by work stoppages. Consumer spending has posted appreciable gains over recent months after a summer lull. Housing starts rebounded in November after declining in September and October. Business fixed investment appears to be growing moderately after a sharp rise in the third quarter. The nominal deficit on U.S. trade in goods and services widened substantially in the third quarter from its rate in the second quarter. Increases in labor compensation have trended up this year, and consumer price inflation also has picked up owing to larger increases in food and energy prices.

Short-term market interest rates have registered mixed changes since the Committee meeting on November 13, 1996, while long-term yields have risen slightly. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G-10 currencies has risen slightly over the intermeeting period.

Growth of M2 picked up in November, while expansion of M3 moderated somewhat from its brisk pace in October. For the year through November, M2 is estimated to have grown at a rate in the upper half of the Committee's annual range, and M3 at a rate a little above the top of its range. Total domestic nonfinancial debt has expanded moderately on balance over recent months and has remained in the middle portion of its range.

The Federal Open Market Committee seeks monetary and financial conditions

[1] Copies of the Minutes of the Federal Open Market Committee meeting of December 17, 1996, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at its meeting in July reaffirmed the ranges it had established in January for growth of M2 and M3 of 1 to 5 percent and 2 to 6 percent respectively, measured from the fourth quarter of 1995 to the fourth quarter of 1996. The monitoring range for growth of total domestic nonfinancial debt was maintained at 3 to 7 percent for the year. For 1997, the Committee agreed on a tentative basis to set the same ranges as in 1996 for growth of the monetary aggregates and debt, measured from the fourth quarter of 1996 to the fourth quarter of 1997. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, somewhat greater reserve restraint would or slightly lesser reserve restraint might be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with relatively strong expansion in M2 and M3 over coming months.

By order of the Federal Open Market Committee, February 7, 1997.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 97–3621 Filed 2-12-97; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Title IV–B Five Year Plan, Annual Progress and Services Report and CFS–101.

OMB No: 0980–0047.

Description: Under title IV–B, subparts 1 and 2, States and Indian Tribes are to submit a five year plan, an annual progress and services report, and an annual budget request and estimated expenditure report (CFS–101). The plan is used by States and Indian Tribes to develop and implement services and describe coordination efforts with other federal, state and local programs. The Annual Progress and Services Report is used to provide updates and changes in the goals and services under the five year plan. The CFS–101 will be submitted annually with the Annual Progress and Services Report to apply for appropriated funds for the next fiscal year.

Respondents: State and Tribal governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
APSR	114	1	120	13,680
CFS–101	114	1	5	570
CFSP	25	1	500	12,500

Estimated Total Annual Burden Hours: 26,750.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: February 5, 1997.

Douglas J. Godesky,

Director, Office of Information, Resource Management Services.

[FR Doc. 97–3523 Filed 2–12–97; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

Technical Electronic Product Radiation Safety Standards Committee; Recharter

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the rechartering of the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC), by the Commissioner of Food and Drugs or designee. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. app. 2).

DATES: The new charter for this committee will extend to December 24, 1998.

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4820.

Dated: February 5, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–3585 Filed 2–12–97; 8:45 am]

BILLING CODE 4160–01–F

Studies of Adverse Effects of Marketed Drugs, Biologics, and Devices; Availability of Grants (Cooperative Agreements); Request for Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the Federal Register of February 5, 1997 (62 FR 5429). The document announced the availability of $1.4 million in Fiscal Year 1997 funds for cooperative agreements to study adverse effects of marketed drugs, biologics, and devices. The document was published with an incorrect application acceptance date. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Robert L. Robins, Grants Management Officer, Division of Contracts and Procurement Management (HFA–520), Food and Drug Administration, Park Bldg., rm. 3–40, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6170.

In FR Doc. 97–2870, appearing on page 5429, in the Federal Register of Wednesday, February 5, 1997, the following correction is made:

1. On page 5432, in the first column, in the first full paragraph, in line four, ''March 14, 1997'' is corrected to read ''March 21, 1997''.

Dated: February 7, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–3660 Filed 2–12–97; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Institute of Child Health and Human Development: Licensing Opportunity and/or Opportunity for a Cooperative Research and Development Agreement (CRADA) for Novel Progesterone Antagonists and Pharmaceutical Compositions Thereof

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health is seeking licensees and/or CRADA partners for the further development, evaluation, and commercialization of novel progesterone antagonists and pharmaceutical compositions thereof. The invention claimed in U.S. Patent Application 60/016,628 entitled ''21-Substituted Progesterone Derivatives As New Antiprogestational Agents'' (HK Kim, RP Blye, PN Rao, JW Cessac, and CK Acosta), filed May 1, 1996, is available for either exclusive or non-exclusive licensing (in accordance with 35 U.S.C. 207 and 37 CFR part 404) and/or further development under a CRADA for clinical and research applications described below in **SUPPLEMENTARY INFORMATION.**

To expedite the research, development, and commercialization of this new class of drugs, the National Institutes of Health is seeking one or more license agreements and/or CRADAs with pharmaceutical or biotechnology companies in accordance with the regulations governing the transfer of Government-developed agents. Any proposal to use or develop these drugs will be considered.

DATES: There is no deadline by which license applications must be received. CRADA proposals must be received on or before May 14, 1997.

ADDRESSES: CRADA proposals and questions about this opportunity should be addressed to Dr. Diana Blithe, Contraceptive Development Branch, Center for Population Research, National Institute of Child Health and Human Development, 6100 Executive Boulevard, Room 8B13, Bethesda, Maryland 20892; Telephone: 301/496–1661.

Licensing proposals and questions about this opportunity should be addressed to Ms. Carol Lavrich, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; Telephone: 301/496–7735, ext. 287.

Information about the patent application and pertinent information not yet publicly described can be obtained under a Confidential Disclosure Agreement. Respondees interested in licensing the invention(s) will be required to submit an Application for License to Public Health Service Inventions. Respondees interested in submitting a CRADA proposal should be award that it may be necessary to secure a license to the above patent rights in order to commercialize products arising from a CRADA.

SUPPLEMENTARY INFORMATION: The discover of antiprogestational steroids can be traced back to the work of chemists at Roussel in the early 1970s who were trying to develop synthetic routes for some new glucocorticoids which require substitution at position 11 of the steroid nucleus. They found that the size of the substituent largely determined whether the compound exhibited agonist or antagonist activity. By extending this work to the sex steroids, Georges Teutsch and his colleagues prepared RU 38486 or mifepristone in 1980 which was subsequently shown to exhibit both antiprogrestational and antiglucocorticoid activity. Clinical studies showed that mifepristone could terminate pregnancy when it was administered prior to day 49 of gestation when the source of progesterone shifts from the corpus luteum to the placenta and could also prevent pregnancy when administered within 72 hours of unprotected intercourse.

As part of its steroid synthetic program, a novel antiprogestin, code named CDB–2914, was prepared by the Research Triangle Institute under contract to the Contraceptive Development Branch and subsequently evaluated by the Branch's Biological Testing Facility. Chemically, CDB–2914 is 17α-acetoxy-11β-(4-N,N-dimethylaminophenyl)-19-norpregna-4,9-diene-3,20-dione. It differs from mifepristone in that it is a derivative of progesterone rather than 19-nortestosterone. However, it shares many pharmacological properties with mifepristone, and is being developed as a postcoital contraceptive.

The compounds available for licensing under this notice are 21-substituted analogs of CDB–2914. Although they have not been studied as extensively as CDB–2914, they exhibit greater antiprogestational and reduced antiglucocorticoid activity and thus have substantial clinical potential as contraceptive agents and for a broad spectrum of therapeutic uses in gynecic medicine. While a licensee/CRADA partner may wish to pursue development of these antiprogestins for the most extensive clinical applications, contributions by the Government will be limited to contraceptive development. Development as abortifacients will be prohibited.

In an effort to expedite research, development, and commercialization of the novel antiprogestational steroids, the National Institute of Child Health and Human Development seeks a CRADA partner(s) for joint exploration and possible commercialization. Any CRADA proposed for these purposes will be considered.

The CRADA aims will include the rapid publication of research results consistent with protection of proprietary information and patentable inventions as well as the timely exploitation of commercial opportunities. The CRADA partner will enjoy the benefits of first negotiation for licensing Government

rights to any inventions arising under the agreement and will advance funds payable upon signing the CRADA to help defray Government expenses for patenting such inventions and other CRADA-related costs.

The role of the National Institute of Child Health and Human Development will be as follows:

1. Provide the collaborator with all biological data on compositions of matter covered by the agreement.
2. Provide samples of compositions of matter covered by the agreement.
3. Provide chemical data on compositions of matter covered by the agreement including synthetic routes, analytical methods employed, and purity.
4. Provide conformational analysis of compositions of matter covered by the agreement where possible.
5. Continue studies on the pharmacokinetics and biological activity of compositions of matter covered by the agreement.
6. Conduct studies to optimize formulations for administration of the compositions of matter covered by the agreement by various routes in rodents and primates.
7. Conduct Ames Test and other genetic toxicology on compositions of matter covered by the agreement scheduled for clinical evaluation.
8. Participate in meetings with the Food and Drug Administration for establishment of the drug safety studies required for Phase I, II, and III clinical investigations of any of the compositions of matter covered by the agreement and provide liaison with that Agency.

The role of the collaborator will be as follows:

1. Undertake studies to identify any unique properties of the compositions of matter covered by the agreement including pharmacological differences from mifepristone.
2. Undertake relative binding affinity studies using human receptor proteins.
3. Undertake acute, subacute, chronic, carcinogenicity, and reproductive toxicology studies necessary to proceed with the orderly evaluation of selected compositions of matter covered by the agreement in human subjects.
4. Undertake an orderly sequence of clinical investigations of selected compositions of matter covered by the agreement for their safety and efficacy as postcoital contraceptives and for therapeutic use in gynecic medicine.

Selection criteria for choosing the CRADA partner(s) will include but are not limited to the following:

1. The collaborator must present in their proposal a clear statement of their capabilities and experience with respect to the tasks to be undertaken. This would include experience in drug development, regulatory affairs, and marketing.
2. The proposal must contain a clear and concise outline of the work to be undertaken, a schedule of significant events, an outline of objectives to be accomplished in a timely manner and such experimental details as will provide a basis for evaluation of competing submissions.
3. The proposal must contain the level of financial support the collaborator will supply for CRADA-related Government activities.
4. A willingness to cooperate with the NICHD in publications of research results consistent with the protection of proprietary information and patentable inventions which may arise during the period of the agreement.
5. Agreement to be bound by DHHS rules and regulations regarding the use of human subjects in clinical investigations, patent rights, ethical treatment of animals, and randomized clinical trials.
6. Agreement with provisions for equitable distribution of patent rights to any inventions developed under the CRADA(s). Generally, the rights of ownership are retained by the organization which is the employer of the inventor, with an irrevocable, non-exclusive, royalty-free license to the Government (when a company employee(s) is the sole inventor) or an option to negotiate an exclusive or non-exclusive license to the company on terms that are appropriate (when the Government employee(s) is the sole inventor).

Dated: February 4, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–3527 Filed 2–12–97; 8:45 am]

BILLING CODE 4140–01–M

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The invention referenced below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and a copy of the U.S. patent application referenced below may be obtained by contacting Stephen Finley, Ph.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; Telephone: 301/496–7735 ext 215; Fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive a copy of the patent application.

Allelic Variation of the Serotonin $5HT_7$ Receptor

U Pesonen, M Koulu, M Linnoila, D Goldman, and M Virkkunen (NIAAA)

Serial No. 08/745,269 filed 08 Nov 96 (claiming priority date of November 09, 1995

The $5HT_7$ serotonin receptor is structurally distinct from known serotonin receptors and exhibits a high affinity for serotonin and several antipsychotic and antidepressant drugs. The neurotransmitter serotonin has a variety of functions in the CNS, and disruption of serotonergic systems may be a factor in a number of clinical disorders or conditions including schizophrenia, depression, obsessive compulsive disorder, anxiety, sleep disorders, migraine headaches, and pain. This invention identifies a rare nonconservative mutation of the human $5HT_7$ serotonin receptor. The mutation from Pro_{279}, a common amino acid found in the helical turns of proteins, to Leu_{279} in the third cytoplasmic loop may alter the secondary and tertiary structure of the receptor and create changes in binding affinities. The $5HT_{7\ Leu279}$ receptor may prove valuable for studying the function of this neurotransmitter in the CNS and make it possible to find biochemical and genetic variables that predict vulnerability to psychiatric disorders, including antisocial personality, and therefore predict these behaviors and also facilitate implementation of preventative and therapeutic measures. The receptor may also be used in medication development and screening for ligands that may bind to the receptor,as well as in receptor inhibition studies.

(Portfolios: Central Nervous System—Research Materials receptors and cell lines; Central Nervous System—Research Materials, cDNA clones and probes)

Dated: February 4, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–3528 Filed 2–12–97; 8:45 am]

BILLING CODE 4140–01–M

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and a copy of the U.S. patent application referenced below may be obtained by contacting Cindy K. Fuchs, J.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7735 ext 232; fax 301/402–0220). A signed Confidential Disclosure Agreement will be required to receive a copy of the patent application.

The CCHC Zinc Fingers of the Retroviral Nucleocapsid Protein Comprises a New Target Useful in Identification and Evaluation of Anti-HIV Therapeutics

L Henderson, L Arthur, W Rice, and A Rein (NCI)

Serial No. 08/379,420 filed January 27, 1995

HIV–1 contains domains known as ''CCHC zinc fingers'' in the retroviral nucleocapsid (NC) protein. Nucleocapsid CCHC zinc fingers are highly conserved throughout nearly all retroviruses, and are sequences of 14 amino acids with four invariant residues, $Cys(X)_2Cys(X)_4His(X)_4Cys$, that chelate zinc and perform essential functions in viral infectivity. HIV–1 NC has two CCHC zinc fingers, both of which are necessary for infectivity. Many compounds that disrupt the CCHC zinc fingers also inactivate HIV–1 by preventing the initiation of reverse transcription and by blocking production of infectious virus from previously infected cells by disruption of Gag processing. Compounds with this activity may be useful for developing new types of antiretroviral drugs. The invention concerns antiretroviral compounds that disrupt the CCHC zinc fingers and assays for identifying such compounds. The invariant nature of retroviral zinc fingers extends the usefulness of these compounds to other retroviruses. Thus these assays are also useful for screening compounds effective against adult T cell leukemia, tropical spastic paraparesis caused by HTLV–1 and HTLV–II, feline leukemia virus, feline immunodeficiency virus, equine infectious virus, and lentivirus infections in other animals. This invention is available for licensing on an exclusive or non-exclusive basis.

(Portfolios: Infectious Diseases—Therapeutics, anti-virals, AIDS; Infectious Diseases—Research Materials)

Dated: February 4, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–3529 Filed 2–12–97; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C., Appendix 2), notice is hereby given of the following National Library of Medicine Special Emphasis Panel (SEP) meeting:

Name of SEP: National Library of Medicine Special Emphasis Panel.

Date: February 10, 1997.

Time: 11:00 a.m.

Place: Conference Call, 8600 Rockville Pike, Bldg. 38A, Rm. 5S–522, Bethesda, Maryland 20894, 301/496–4221.

Contact: Dr. Roger W. Dahlen, Chief, Biomedical Information Support Branch, EP, 8600 Rockville Pike, Bldg. 38A, Rm. 5S–522, Bethesda, Maryland 20894, 301/496–4221.

Purpose/Agenda: To evaluate and review Fellowship grant applications. The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93–879—Medical Library Assistance, National Institutes of Health)

Dated: February 7, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–3631 Filed 2–10–97; 2:31 pm]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Chemistry and Related Sciences.

Date: March 6–8, 1997.

Time: 8:00 a.m.

Place: Redlion Inn, Richland, Washington.

Contact Person: Dr. Marjam Behar, Scientific Review Administrator, 6701 Rockledge Drive, Room 5218, Bethesda, Maryland 20892, (301) 435–1180.

Name of SEP: Clinical Sciences.

Date: March 20, 1997.

Time: 8:00 a.m.

Place: Holiday Inn, Chevy chase, Maryland.

Contact Person: Ms. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, Maryland 20892, (301) 435–1786.

Name of SEP: Biological and Physiological Sciences.

Date: March 20, 1997.

Time: 3:00 p.m.

Place: NIH, Rockledge 2, Room 4144, Telephone Conference.

Contact Person: Dr. Paul Strudler, Scientific Review Administrator, 6701 Rockledge Drive, Room 4144, Bethesda, Maryland 20892, (301) 435–1716.

Name of SEP: Microbiological and Immunological Sciences.

Date: March 24–25, 1997.

Time: 8:30 a.m.

Place: Doubletree Hotel, Rockville, Maryland.

Contact Person: Dr. Garrett Keefer, Scientific Review Administrator, 6701 Rockledge Drive, Room 4190, Bethesda, Maryland 20892, (301) 435–1152.

Name of SEP: Chemistry and Related Sciences.

Date: April 14–16, 1997.

Time: 4:00 p.m.

Place: Hampton Inn, Urbana, Illinois.

Contact Person: Dr. Nancy Lamontagne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4170, Bethesda, Maryland 20892, (301) 435–1726.

Name of SEP: Clinical Sciences.

Date: April 18, 1997.

Time: 11:00 a.m.

Place: NIH, Rockledge 2, Room 4126, Telephone Conference.

Contact Person: Dr. Jerrold Fried, Scientific Review Administrator, 6701 Rockledge Drive, Room 4126, Bethesda, Maryland 20892, (301) 435–1777.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 39.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.392, 93,893, National Institutes of Health, HHS)

Dated: February 7, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–3633 Filed 2–12–97; 8:45 am]

BILLING CODE 4140–01–M

Prospective Grant of Exclusive License: Diagnostic Test for Alzheimer's Disease

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a worldwide, limited field of use, exclusive license to practice the inventions embodied in the patents and patent applications referred to below to NeuroLogic, Inc. of Washington, D.C. The patents and patent applications to be licensed are U.S. Patent No. 5,580,748 issued December 3, 1996 (U.S. Patent Application Serial No. 08/056,456 filed May 3, 1993), entitled ''Cell Test for Alzheimer's Disease,'' and all continuation applications, divisional applications, continuation-in-part applications, and foreign counterpart applications related to U.S. Patent Application Serial No. 08/056,456.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty (60) days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Alzheimer's disease (AD) represents the fourth leading cause of death in the United States, killing over 100,000 annually, and afflicting some 4 million Americans and is projected to affect over 14 million by the year 2050. Various reports indicate that the incidence of Alzheimer's disease increases with age and estimate that the prevalence of AD in people over 80 years of age is between 20 and 50%. Under currently available technology AD can only be positively diagnosed by pathological examination of brain tissue during autopsy in conjunction with a clinical history of dementia.

Present efforts to diagnosis the disease have been generally directed to the identification and detection of molecules present in blood samples or in cerebral spinal fluid (CSF). Current tests for the detection of Alzheimer's disease have met with varying degrees of commercial success. The proposed technology involves the identification of Alzheimer's disease utilizing fibroblast cells. The method consists of: Measuring the presence or absence of a specific potassium channel, measuring the effect of potassium channel blockers specific for the 113 pS potassium channel on intracellular calcium levels, measuring the increase of intracellular calcium in response to an activator of intracellular calcium release in the cells of a patient, and measuring the amount of the G-protein, cp20.

ADDRESSES: Requests for a copy of these patent applications, inquiries, comments, and other materials relating to the contemplated license should be directed to: Stephen L. Finley, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852; Telephone: (301) 496–7056, ext. 215; Facsimile: (301) 492–0220. A signed Confidential Disclosure Agreement will be required to receive a copy of any pending patent application. Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by NIH on or before April 14, 1997, will be considered. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: February 4, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–3530 Filed 2–12–97; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Office for Women's Services; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Advisory Committee for Women's Services of the Substance Abuse and Mental Health Services Administration (SAMHSA) in February 1997.

The meeting of the Advisory Committee for Women's Services will include a discussion of policy and program issues relating to women's substance abuse and mental health service needs; the SAMHSA fiscal year 1998 budget; resolutions adopted at the Committee's September meeting; consideration of September meeting minutes; and other policy issues.

A summary of the meeting and/or a roster of committee members may be obtained from: Pamela J. McDonnell, Executive Secretary, Advisory Committee for Women's Services, Office for Women's Services, SAMHSA, Parklawn Building, Room 13–99, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5184.

Substantive information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Advisory Committee for Women's Services.

Meeting Date(s): February 24, 1997.

Place: Room 12–94, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Open: February 24, 2:00 p.m. to 4:00 p.m.

Contact: Pamela J. McDonnell, Room 13–99, Parklawn Building, Telephone: (301) 443–5184.

This notice is being published less than 15 days prior to the meeting due to the urgent need to resolve pending issues before a full meeting can be scheduled.

Dated: February 7, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–3586 Filed 2–12–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–24]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below

will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995, Public law 104–13 (44 U.S.C. 3506(c)(2)(A)). The Department is soliciting public comments on the subject proposal.

DATES: Written comments must be submitted on or before April 14, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Ndeye Jackson at (202) 708–5537, Ext. 105 (this is not a toll free number), or Leslie Strauss, Housing Assistance Council, 1025 Vermont Avenue, NW, Washington, DC 20005, (202) 842–8600.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Survey of Housing Conditions of Migrant and Seasonal Farmworkers

OMB Control Number: Description of the need for the information and proposed use: The Survey of Housing Conditions of Migrant and Seasonal Farmworkers collects data on the housing conditions of farmworkers along the east coast migrant stream including types of structures occupied, proportion of households crowded, proportion households cost burdened, proportion lacking full appliances and sanitary facilities, proportion residing in grower-provided housing, and other characteristics. Very little is known about the housing conditions of migrant and seasonal farmworkers. Only a few national studies have addressed the needs of the farmworkers, and most have not collected information pertaining to housing conditions. The only major study focusing on farmworker housing conditions was the national Farmworker Housing Study prepared in 1980; this study was never published. Housing developers and others who provide housing to this population are hampered in serving them by this lack of information.

Agency Form Numbers:

Members of affected public: Migrant farmworkers, rural housing developers, and government agencies

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Number of respondents: 3,000; Estimate Responses per Respondent: 18; Time per respondent: 15 minutes; Total hours to respond: 750.

Respondents's Obligation: Voluntary.

Status of the proposed information collection: Pending OMB approval.

Authority: Title 42 U.S.C. 5424 note, Title 13 U.S.C. sec. 8(b), and Title 12, U.S.C., sec. 1701z–1.

Dated: January 31, 1997.

Michael A. Stegman,

Assistant Secretary, Office of Policy Development and Research.

[FR Doc. 97–3616 Filed 2–12–97; 8:45 am]

BILLING CODE 4210–33–M

[Docket No. FR–4105–N–03]

Announcement of Funding Awards for Fiscal Year 1996 Hispanic-Serving Institutions Work Study Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1996 Hispanic-serving Institutions Work Study Program (HSI–WSP). The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to attract economically disadvantaged and minority students to pre-professional careers in community and economic development, community planning and community management, and to provide a cadre of well-qualified professionals to work in local community building programs.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships, U.S. Department of Housing and Urban Development, room 8110, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1537, extension 218. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TTY by dialing the Federal Information Relay Service on (800) 877–8399, or 202–708–1455. (Telephone numbers, other than the ''800'' TTY number, are not toll free.)

SUPPLEMENTARY INFORMATION: The HSI–WSP is administered by the Office of University Partnerships under the Assistant Secretary for Policy Development and Research. The Office of University Partnerships administers HUD's ongoing grant programs to institutions of higher education and creates initiatives through which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The HSI–WSP was created through an earmark of funds appropriated for the Community Development Work Study Program in the Conference Report, H. Rep. 104–384, dated December 6, 1995, which accompanied ''The Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996'' (Pub. L. 104–134). Eligible applicants are private and public non-profit Hispanic-serving community colleges having qualifying academic degrees. Each participating institution of higher education can be funded for a minimum of three and a maximum of ten students. The HSI–WSP provides each participating student up to $12,200 per year for a work stipend (for internship-type work in community building) and tuition and additional support (for books and other expenses related to the academic program). Additionally, the HSI–WSP provides the participating institution of higher education with an administrative allowance of $1,000 per student per year. On October 2, 1996 (61 FR 51566), HUD published a Notice of Funding Availability (NOFA) announcing the availability of $3 million in FY 1996 funds for the Hispanic-serving Institutions Work Study Program. The Department reviewed, evaluated and scored the

applications received based on the criteria in the NOFA. As a result, HUD has funded the applications announced below, and in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as follows:

List of Awardees for Grant Assistance Under the FY 1996 Hispanic-Serving Institutions Work Study Program Funding Competition, by Name, Address, Phone Number, Grant Amount and Number of Students Funded

New York/New Jersey

1. Bronx Community College, Ms. Carin Savage, Bronx Community College, University Avenue and West 181st Street, Bronx, New York 10453, (718) 289–5184. Grant: $209,760 to fund eight students.

2. Fiorella LaGuardia Community College, Dr. Harry N. Heinemann, Fiorella LaGuardia Community College, 31–10 Thomson Avenue, Long Island, NY 11101, (718) 482–5200. Grant: $132,960 to fund eight students.

3. Hostos Community College, Dr. Carole Joseph, Hostos Community College, 500 Grand Concourse, Bronx, New York 10451, (718) 518–6660. Grant: $204,352 to fund eight students.

4. Hudson County Community College, Dr. Estelle F. Greenberg, Hudson County Community College, 25 Journal Square, Jersey City, NJ 07306. Grant: $124,746 to fund eight students.

Southeast/Caribbean

5. Colegio Universitario del Este, Dr. Dulcinia Nunez, Colegio Universitario del Este, PO Box 2010, Carolina, PR 00984, (787) 257–7373, ext. 2100. Grant: $172,840 to fund eight students.

6. Miami-Dade Community College, Ms. Isabel Rapp, Miami-Dade Community College, 300 NE. 2nd Avenue, Miami, FL 33132, (305) 237–3015. Grant: $206,952 to fund eight students.

Midwest

7. St. Augustine College, Dr. Joaquin Villegas, St. Augustine College, 1333 W. Argyle, Chicago, IL 60640, (773) 772–1760. Grant: $205,120 to fund eight students.

Southwest

8. Northern New Mexico Community College, Dr. Felicia Casados, Northern New Mexico Community College, 1002 N. Onate Street, Espanola, NM 87532, (505) 747–2142. Grant: $211,200 to fund eight students.

9. Southwest Texas Junior College, Mrs. Gloria Rivera, Southwest Texas Junior College, 2401 Garner Field Road, Uvalde, TX 78801, (210) 591–7286. Grant: $164,232 to fund eight students.

Rocky Mountain

10. Otero Junior College, Mr. Jeff Paolucci, Otero Junior College, 1802 Colorado Avenue, La Junta, CO 81050, (719) 384–6834. Grant: $207,664 to fund eight students.

Pacific/Hawaii

11. Compton Community College, Dr. Ron Chapman, Compton Community College, 1111 E. Artesia Blvd., Compton, CA 90221, (310) 637–2660. Grant: $173,280 to fund eight students.

12. Fresno City College, Dr. Dona Alpert, Fresno City College, 1525 E. Weldon Avenue, Fresno, CA 93704, (209) 244–5980. Grant: $211,200 to fund eight students.

13. Los Angeles Harbor College, Dr. Clare Adams, Los Angeles Harbor College, 1111 Figueroa Place, Wilmington, CA 90744, (310) 522–8318. Grant: $206,208 to fund eight students.

14. Los Angeles Trade Technical College, Dr. Denise Fairchild, Los Angeles Trade Technical College, 400 West Washington Blvd., Los Angeles, CA 90015, (213) 744–9065. Grant: $211,200 to fund eight students.

15. Rancho Santiago College, Dr. Gloria Guzman, Rancho Santiago College, 1530 W. 17th Street, Santa Ana, CA 92705, (714) 564–6810. Grant: $211,200 to fund eight students.

Dated: February 6, 1997.

Michael A. Stegman,

Assistant Secretary for Policy Development and Research.

[FR Doc. 97–3617 Filed 2–12–97; 8:45 am]

BILLING CODE 4210–62–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Public Advisory Group Charter

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Renewal of the Public Advisory Group Charter—Exxon Valdez Oil Spill.

SUMMARY: This notice is published in accordance with 41 CFR Part 101–6, section 101–6.1015(a), Committee establishment, reestablishment, or renewal.

Following the recommendation and approval of the Exxon Valdez Oil Spill Trustee Council, the Secretary of the Interior hereby renews the Exxon Valdez Oil Spill Public Advisory Group Charter to continue for two years, to October 22, 1998.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska, (907) 271–5011.

SUPPLEMENTARY INFORMATION: On March 24, 1989, the T/V Exxon Valdez ran aground on Bligh Reef in Prince William Sound in Alaska spilling approximately 11 million gallons of North Slope crude oil. Oil moved into the Gulf of Alaska, along the Kenai coast to Kodiak Island and the Alaska Peninsula—some 600 miles from Bligh Reef. Massive clean-up and containment efforts were initiated and continue to 1992. On October 8, 1991, an agreement was approved by the United States District Court for the District of Alaska that settled claims of the United States and the State of Alaska against the Exxon Corporation and the Exxon Shipping Company for various criminal and civil violations. Under the civil settlement, Exxon companies agreed to pay to the governments $900 million over a period of 10 years.

The Exxon Valdez Oil Spill Trustee Council was established to manage the funds obtained from the civil settlement of the Exxon Valdez Oil Spill. The Trustee Council is composed of three State of Alaska trustees (Attorney General; Commissioner, Department of Environmental Conservation; and Commissioner, Department of Fish and Game) and three Federal representatives appointed by the Federal Trustees (Secretary, U.S. Department of Agriculture; the Administrator of the National Oceanic and Atmospheric Administration; and the Secretary, U.S. Department of the Interior).

The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991 and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska*, Civil Action No. A91–081 CV. The Public Advisory Group was chartered by the Secretary of the Interior on October 23, 1992 and functions solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1988).

The Public Advisory Group was established to advise the Trustee Council, and began functioning in October 1992. The Public Advisory

Group consists of 17 members representing the following principal interests: sport hunting and fishing, environmental, public-at-large (5), recreation users, local government, science/academic, conservation, subsistence, commercial fishing, aquaculture, commerical tourism, forest products, and Native landowners. Members were appointed to serve a two-year term.

To carry out its advisory role, the Advisory Group makes recommendations, to, and advises, the Trustee Council in Alaska on the following matters:

All decisions related to injury assessment, restoration activities, or other use of natural resource damage recovery monies obtained by the government, including all decisions regarding:

a. Planning, evaluation and allocation of available funds;

b. Planning, evaluation and conduct of injury assessment; and

c. Planning, evaluation and conduct of restoration activities.

Trustee Council intentions regarding the importance of obtaining a diversity of viewpoints is stated in the *Public Advisory Group Background and Guidelines* (March 1993, updated June 1994): ''The Trustee Council intends that the Public Advisory Group be established as an important component of the Council's public involvement process.'' The Council continues, stating their desire that ''* * * a wide spectrum of views and interest are available for the Council to consider as it evaluates, develops, and implements restoration activities. It is the Council's intent that the diversity of interests and views held by the Public Advisory Group members contribute to wide ranging discussions that will be of benefit to the Trustee Council.''

In order to ensure that a broad range of public viewpoints continues to be available to the Trustee Council, and in keeping with the settlement agreement, the Public Advisory Group is being renewed for another two-year period.

Certification

I hereby certify that the renewal of the Charter of the Public Advisory Group, an advisory committee to make recommendations to and advise the Exxon Valdez Oil Spill Trustee Council in Alaska, is necessary and in the public interest in connection with the performance of duties mandated by the settlement of *United States* v. *State of Alaska*, No. A91–081 CV, and is in accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended and supplemented.

Dated: January 28, 1997.

Bruce Babbit,

Secretary of the Interior.

[FR Doc. 97–3588 Filed 2–12–97; 8:45 am]

BILLING CODE 4310–10–M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Michael Horovitz, Savannah, GA, PRT–824931.

The applicant requests a permit authorizing interstate commerce to acquire one radiated tortoise (*Geochelone radiata*) for the purpose of enhancement of the species through captive propagation.

Applicant: National Zoological Park, Washington, DC, PRT–824960

The applicant requests a permit authorizing the import of blood and tissue samples taken from wild black rhinoceros (*Diceros bicornis*) from South Africa for the purpose of scientific research and enhancement of survival of the species.

Applicant: Mary Katherine Gonder, New York, NY, PRT–810330.

The applicant requests a permit amendment to import hair samples of chimpanzee (*Pan troglodytes*) collected from zoo specimens and sleeping nests in Cameroon for enhancement of the species through scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 7, 1997.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–3513 Filed 2–12–97; 8:45 am]

BILLING CODE 4310–55–P

Availability of an Environmental Assessment and Receipt of an Application Submitted by the Charles Ingram Lumber Company for an Incidental Take Permit for Red-cockaded Woodpeckers in Association With Management Activities on Their Property in Florence County, South Carolina

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Charles Ingram Lumber Company (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit (ITP) pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The proposed permit would authorize the incidental take of a Federally endangered species, the red-cockaded woodpecker, *Picoides borealis* (RCW), known to occur on property owned by the Applicant in Florence County, South Carolina. The Applicant is requesting an ITP in order to harvest the timber on their property for economic reasons. The Applicant's property, known as Hoods Crossing, is located approximately five miles northwest of Pamplico in Florence County. The tract consists of 753 acres of which 364 acres is in pine plantation aged between 1–15 years, 382 acres in mature timber, and approximately 7 acres in ditches and roads. The proposed permit would authorize incidental take of a single RCW at Hoods Crossing in exchange for mitigation elsewhere as described further in the **SUPPLEMENTARY INFORMATION** section below.

The Service also announces the availability of an environmental assessment (EA) and habitat conservation plan (HCP) for the incidental take application. Copies of the EA and/or HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). This notice also advises the public that the Service has made a preliminary determination that issuing the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), as amended. The Finding of No Significant Impact (FONSI) is

based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

DATES: Written comments on the permit application, EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before March 17, 1997.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or at the following Field Offices: Field Supervisor, U.S. Fish and Wildlife Service, P.O. Box 12559, Charleston, South Carolina 29422–2559; Red-cockaded Woodpecker Recovery Coordinator, U.S. Fish and Wildlife Service, College of Forest and Recreational Resources, 261 Lehotsky Hall, Box 341003, Clemson, South Carolina 29634–1003 (telephone 864/656–2432). Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Comments must be submitted in writing to be processed. Please reference permit number PRT–822028 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. Rick G. Gooch, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7110; or Ms. Lori Duncan, Fish and Wildlife Biologist, Charleston Field Office, (see **ADDRESSES** above), telephone: 803/727–4707 extension 21.

SUPPLEMENTARY INFORMATION: The RCW is a territorial, non-migratory cooperative breeding bird species. RCWs live in social units called groups which generally consist of a breeding pair, the current year's offspring, and one or more helpers (normally adult male offspring of the breeding pair from previous years). Groups maintain year-round territories near their roost and nest trees. The RCW is unique among the North American woodpeckers in that it is the only woodpecker that excavates its roost and nest cavities in living pine trees. Each group member has its own cavity, although there may be multiple cavities in a single pine tree. The aggregate of cavity trees is called a cluster. RCWs forage almost exclusively on pine trees and they generally prefer pines greater than 10 inches diameter at breast height. Foraging habitat is contiguous with the cluster. The number of acres required to supply adequate foraging habitat depends on the quantity and quality of the pine stems available.

The RCW is endemic to the pine forests of the Southeastern United States and was once widely distributed across 16 States. The species evolved in a mature fire-maintained ecosystem. The RCW has declined primarily due to the conversion of mature pine forests to young pine plantations, agricultural fields, and residential and commercial developments, and to hardwood encroachment in existing pine forests due to fire suppression. The species is still widely distributed (presently occurs in 13 southeastern states), but remaining populations are highly fragmented and isolated. Presently, the largest known populations occur on Federally owned lands such as military installations and national forests.

In South Carolina, there are an estimated 1,000 active RCW clusters as of 1992; 53 percent are on Federal lands, 7 percent are on State lands, and 40 percent are on private lands.

There has not been a complete inventory of RCWs in South Carolina so it is difficult to precisely assess the species' overall status in the State. However, the known populations on public lands are regularly monitored and generally considered stable. While several new active RCW clusters have been discovered on private lands over the past few years, many previously documented RCW clusters have been lost. It is expected that the RCW population on private lands in South Carolina will continue to decline, especially those from small tracts isolated from other RCW populations.

There is only one known RCW cluster at Hoods Crossing. The cluster consists of one active and six inactive cavity trees. A single male RCW is known to occupy the cluster. The nearest known RCW group to Hoods Crossing is approximately 5 miles away on private land in Williamsburg County. The nearest known concentration of RCW groups occurs approximately 40 miles away to the north at Sandhills State Forest in Chesterfield County and to the south approximately 25 miles near Hemingway in Williamsburg County.

The Applicant proposes to harvest the timber at Hoods Crossing for economic reasons. The Hoods Crossing property has very limited suitable habitat and is relatively isolated from other RCW populations. Without management, the midstory would continue to encroach and the RCW would most likely abandon the tract.

The EA considers the environmental consequences of three alternatives, including the proposed action. The proposed action alternative is issuance of the incidental take permit and implementation of the HCP as submitted by the Applicants. The HCP provides for an off-site mitigation strategy focusing on enhancing four clusters in designated recruitment stands at Cheraw State Park through cavity provisioning. Cheraw State Park is located in a designated recovery population for RCWs. The recruitment sites will be managed and protected. The Applicant, via their consultant, will attempt to translocate the adult male RCW from Hoods Crossing to Poinsett Weapons Range in Sumter County. The HCP provides a funding source for the above-mentioned mitigation measures.

As stated above, the Service has made a preliminary determination that the issuance of the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of an ITP would not have significant effects on the human environment in the project area.

2. The proposed take is incidental to an otherwise lawful activity.

3. The Applicant has ensured that adequate funding will be provided to implement the measures proposed in the submitted HCP.

4. Other than impacts to endangered and threatened species as outlined in the documentation of this decision, the indirect impacts which may result from issuance of the ITP are addressed by other regulations and statutes under the jurisdiction of other government entities. The validity of the Service's ITP is contingent upon the Applicant's compliance with the terms of the permit and all other laws and regulations under the control of State, local, and other Federal governmental entities.

The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

On Thursday, January 16, 1997, the Service published a notice in the Federal Register announcing the Final Revised Procedures for implementation of NEPA (NEPA Revisions), (62 FR 2375–2382). The NEPA revisions update the Service's procedures, originally published in 1984, based on changing trends, laws, and consideration of public comments. Most importantly, the NEPA revisions reflect new initiatives and Congressional mandates for the Service, particularly involving new authorities for land acquisition activities, expansion of grant programs and other private land activities, and increased Endangered Species Act permit and recovery activities. The revisions promote cooperating agency arrangements with other Federal agencies; early coordination techniques for streamlining the NEPA process with other Federal agencies, Tribes, the States, and the private sector; and integrating the NEPA process with other environmental laws and executive orders. Section 1.4 of the NEPA Revisions identify actions that may qualify for Categorical Exclusion. Categorical exclusions are classes of actions which do not individually or cumulatively have a significant effect on the human environment. Categorical exclusions are not the equivalent of statutory exemptions. If exceptions to categorical exclusions apply, under 516 DM 2, Appendix 2 of the Departmental Manual, the departmental categorical exclusions cannot be used. Among the types of actions available for a Categorical Exclusion is for a ''low effect'' HCP/incidental take permit application. A ''low effect'' HCP is defined as an application that, individually or cumulatively, has a minor or negligible effect on the species covered in the HCP [Section 1.4(C)(2)].

The Service may consider the Applicant's project and HCP such a Categorical Exclusion, since the project's habitat currently contains only a single RCW. The Service is soliciting for public comments on this determination. The Service is announcing the availability of the EA since the project's environmental documents were finalized shortly after the NEPA Revisions were released. However, the Service may make a final determination that this action is categorically excluded.

Dated: February 6, 1997.

C. Monty Halcomb,

Acting Regional Director.

[FR Doc. 97–3583 Filed 2–12–97; 8:45 am]

BILLING CODE 4310–55–P

Klamath Fishery Management Council; Meeting

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The Klamath Fishery Management Council makes recommendations to agencies that regulate harvest of anadromous fish in the Klamath River Basin. The purpose of this meeting will be to develop a range of options for the 1997 fishery management season for discussion with the Salmon Advisory Subpanel of the Pacific Fishery Management Council. The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 1:00 p.m. to 5:00 p.m. on Sunday, March 2, 1997.

PLACE: The meeting will be held at the Red Lion Hotel, Lloyd Center, 1000 N.E. Multnomah, Portland, OR.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1215 South Main), Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Klamath Council, please refer to the notice of its initial meeting that appeared in the Federal Register on July 8, 1987 (52 FR 25639).

Dated: February 6, 1997.

Thomas J. Dwyer,

Acting Regional Director.

[FR Doc. 97–3584 Filed 2–12–97; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[NM–017–1430–001/G–010–G7–0201/7–21749I–LM]

Shooting Closure on Public Lands in San Ysidro, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Shooting Closure in Rio Salado Riparian Perea Nature Trail.

SUMMARY: The Bureau of Land Management (BLM), Rio Puerco Resource Area is closing approximately 320 acres of public lands in the Rio Puerco Resource Area, located in Sandoval County, New Mexico, to the discharge of firearms (including black powder and antique arms). This action will provide the necessary public safety and will also decrease potential conflicts with recreational users. Unrestricted discharge of firearms in this area by visitors hiking the Perea Nature trail and the people that live in the village of San Ysidro in close proximity to the area. State Highway No. 44 has heavy traffic throughout the year which borders the east and north sides of the area. The subject lands are contiguous to private lands and in close proximity to business establishments and residential dwellings. Neo-tropical migrant birds and other birds are disturbed by indiscriminate shooting in the area, excluding the Rio Grande Retrievers. The Rio Grande Retrievers practice in the area with blank cartridges, which have no potential conflict on the visitors.

The public lands closed to discharging of firearms under this closure will be posted with signs at the most prominent points of public access.

EFFECTIVE DATE: Notice is hereby given that effective February 13, 1997, shooting on public lands is prohibited on approximately one section of public lands in Sandoval County, New Mexico.

SUPPLEMENTARY INFORMATION: The public lands affected by this closure are described as follows:

New Mexico Principal Meridian

T. 15 N., R. 1 E.,
Secs. 12, NW¼, NE¼;
Containing approximately 320 acres.

The purpose of this action is to enhance visitors safety on public lands and allow the public to enjoy the nature trail and observe wildlife in the area free from the shooting hazard. This designation remains in effect until further notice. This closure order is in accordance with the provisions of 43 CFR 8364.1, and applies to all persons.

FOR FURTHER INFORMATION CONTACT: Joe Jaramillo, Realty Specialist, Bureau of Land Management, Rio Puerco Resource Area, 435 Montano, NE., Albuquerque, New Mexico 87107, (505) 761–8779.

Michael R. Ford,

District Manager.

[FR Doc. 97–3562 Filed 2–12–97; 8:45 am]

BILLING CODE 4310–AG–M

[AK–930–1110–00]

Notice of Intent To Prepare an Integrated Activity Plan (IAP)/ Environmental Impact Statement (EIS) on Management of the Northeastern Portion of the National Petroleum Reserve-Alaska (NPR–A), Request for Information, and Call for Nominations and Comments

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare and Integrated Activity Plan/Environmental Impact Statement on Management of the northeastern portion of the National Petroleum Reserve-Alaska, Request for Information, and Call for Nominations and Comments.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq*.), as amended; the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq*.), as amended; Title I of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 *et seq*), as amended by the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1981, Pub. L. 96–514, 94 Stat. 2957, 2964 (codified in 42 U.S.C. 6508); the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, 94 Stat. 2371, section 810, 16 U.S.C. 3120; and the regulations at 43 CFR Parts 2360 and 3130; the Bureau of Land Management (BLM), Alaska State Office, is preparing an Integrated Activity Plan (IAP)/ Environmental Impact Statement (EIS) for the northeast portion of the National Petroleum Reserve-Alaska (NPR–A). This Notice also serves as a Request for Information (Request) and Call for Nominations (Call) and Comments per 43 CFR 3130.1 and 3131.2.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to invite suggestions and the submittal of relevant information for the proposed IAP/EIS. Potential issues include, but are not limited to, wildlife resources (terrestrial and aquatic) protection, mineral resource development (including oil and gas leasing, pursuant to 43 CFR Part 3130), subsistence resources and activities and possible impacts on subsistence from various management alternatives, access recreation and visual resources, threatened and endangered species, and historic, cultural, soil, water, and vegetation resources. Potential management actions and activities which may have environmental and subsistence impacts for the area include mineral material extraction, leasable mineral exploration and development, recreation, commercial development, modification of the existing Special Areas and identification of any new areas for additional resource protection.

Information, comments, and nominations on specific issues to be addressed in the plan are sought from all interested parties. This early planning and consultation step is important for ensuring that all interests and concerns are communicated to the Department of the Interior for future decisions in land use, planning, and management.

Description of the Area:

The area subject to this Notice is composed of those BLM-administered lands, subject to valid existing rights, in the northeastern portion of NPR–A. The northeastern portion of NPR–A is described as beginning on the NPR–A boundary on the township line between T.3 S., R. 5 W. and T. 3 S., R. 6 W., Umiat Meridian (U.M.), and thence northerly along the township lines to the northeast corner of T. 2 N., R. 6 W., U.M., thence westerly along the township line to the right bank of the Ikpikpuk River, thence northerly along the right bank of the Ikpikpuk River to the northern boundary of NPR–A, thence in a generally easterly and southerly direction following the boundary of NPR–A to the point of beginning. This area consists of approximately 4.6 million acres. A large scale map of the plan area (which also serves as the Call map) showing boundaries of the area on a township-by-township basis is available from the Alaska State Office, BLM, 222 West 7th Avenue, Anchorage, AK 99501, telephone (907) 271–3369.

Responses

BLM seeks information and comments on issues relating to the future land use, planning, and management of the northeast corder of NPR–A. The bureau requests information and comments on resources, such as wildlife and subsistence resources, as well as current and potential future activities on these lands, including possible development of the area's oil and gas potential. For example, the agency is interested in learning what areas of particular value for various species and uses, and what measures should be considered to protect resources and uses from potentially impacting activities.

Comments are also sought on any potential conflicts with approved coastal management plans (CMPs) and other land use plans that may result from possible future activities in the area. These comments should identify specific policies of concern as listed in CMPs or other plans, the nature of the conflicts foreseen, and steps that BLM could take to avoid or mitigate the potential conflicts. Comments may be in terms of broad areas or restricted to particular townships of concern.

Comments are sought on activities and measures to protect surface resources within the plan area, including fish and wildlife, historical and scenic values. Comments are sought on subsistence uses and needs within the plan area and possible impacts on subsistence from other uses of the area. Comments should include recommendations for particular sections of the plan area that are of value for surface and subsurface resources, as well as conditions, restrictions and prohibitions that would protect surface resources.

Pursuant to 43 CFR 3131.1 and 3131.2, relevant information related to possible oil and gas leasing is requested for the plan area. Oil and gas companies are specifically requested to nominate within the plan area, areas that they would like to have considered for oil and gas leasing. Nominations must be depicted on the Call map by outlining the area(s) of interest along township lines. Nominators are asked to submit a list of townships nominated to facilitate correct interpretation of their nominations on the Call map. Although the identifies of those submitting nominations for oil and gas leasing become a matter of public record, the individual nominations will be held confidential consistent with applicable law.

Nominators also are requested to rank townships nominated for oil and gas leasing according to priority of interest[(e.g., priority 1 (high), 2 (medium), or 3 (low)]. Townships nonominated that do not indicate priorities will be considered priority 3. Nominators are encouraged to be specific in indicating townships by priority. Blanket priorities on large areas are not useful in the analysis of industry interest. The telephone number and name of a person to contact in the nominator's organization for additional information should be included in the response.

The regulations at 43 CFR part 3130 limit the size of an oil and gas lease tract within the NPR–A boundaries to no more than 60,000 acres (43 CFR 3130.4–1). Although nominations are to be submitted along township lines, comments are also being sought on the preferred size of tracts for leasing in this area, not to exceed 60,000 acres.

Responses to this request for information and comments, and call for

nominations must be received no later than 45 days following publication of this document in the Federal Register. Nominations must be submitted in envelopes labeled ''Nominations Related to the NPA–A IAP/EIS'' to protect the confidentiality of the nonominations. The original Call map with nonominations must be submitted to the NRP–A Planning Team Leader, Bureau of Land Management, 222 West 7th Avenue #K13, Ανψηοραγε, Αλασκα 99513–7599.

Information, comments, and nominations submitted in responses to this publication will assist in early scoping and later development of alternative for the IAP/EIS and will help identify areas for potential activities, including oil and gas development and resource protection.

Tentative Schedule

Approximate dates for actions and decisions in the planning process for this proposal are:

Comments Due on Notice, Request, and Call.	March 31, 1997.
Scoping meetings (precise dates announced later).	March–April 1997.
Draft IAP/EIS available for comment.	October 31, 1997.
Public meetings/hearings ..	Nov.–Dec. 1997.
Comments due on Draft IAP/EIS.	December 31, 1997.
Final IAP/EIS available for public review.	May 15, 1998.
Record of Decision	August 15, 1998.

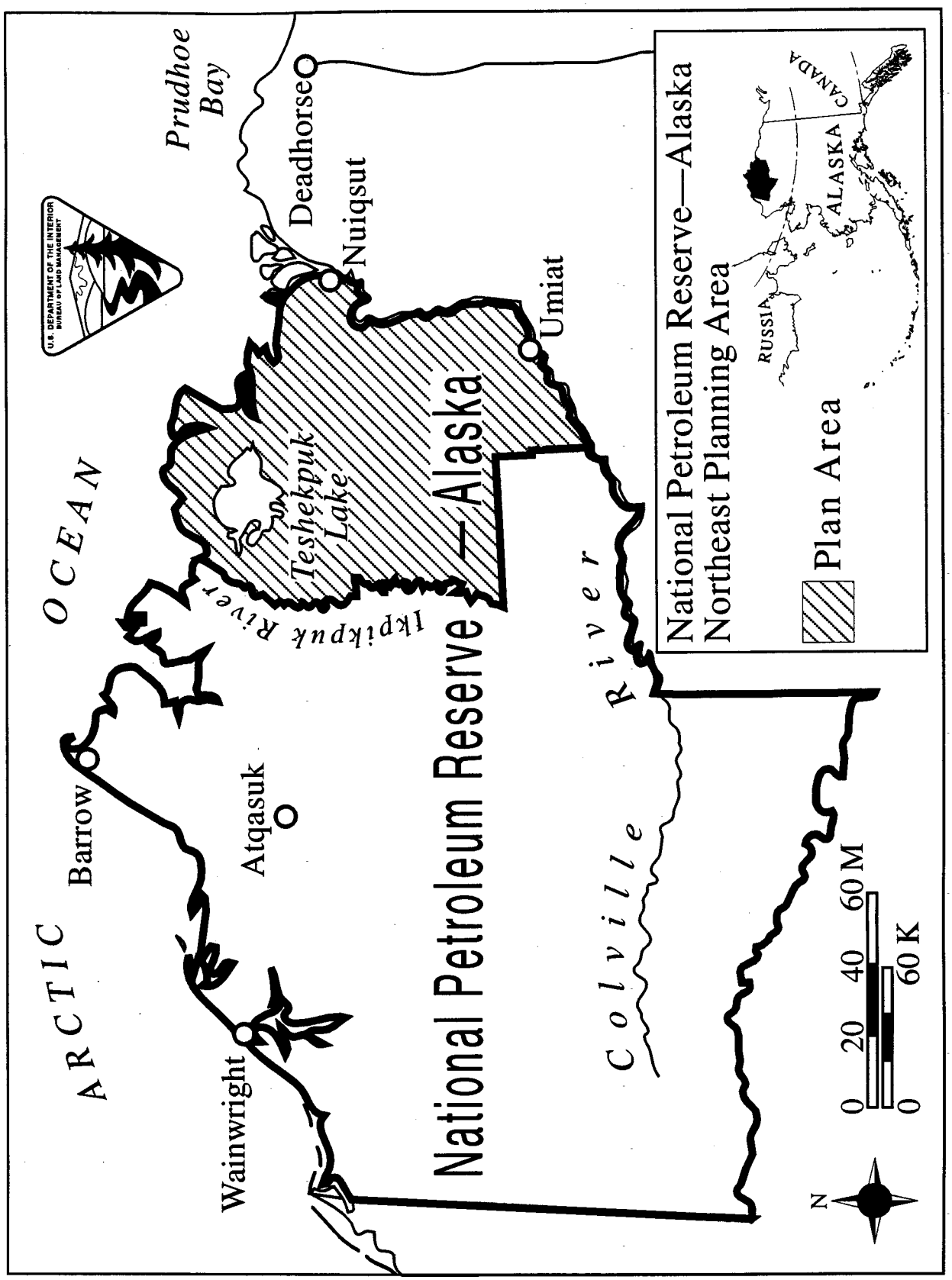
FOR FURTHER INFORMATION, CONTACT: Jim Ducker, (907) 271–3369 or jducker ak.blm.gov, or Curt Wilson, (907) 271–5546 or c1wilson@ak.blm.gov. Both can be reached by mail at 222 W. 7th Avenue, #13, Anchorage, AK 99513–7599.

Tom Allen,

State Director, Alaska.

Attachment—Map of Plan Area

BILLING CODE 4310–70–M



[FR Doc. 96–3614 Filed 2–12–96; 8:45 am]

BILLING CODE 4310–JA–C

National Park Service

Mojave National Preserve Advisory Commission; Meetings

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the Mojave National Preserve Advisory Commission will be held March 10 and 11, 1997; assemble at 1 p.m., March 10, 1997, at the AVI Hotel located between Laughlin, Nevada and Stateline, CA.

The agenda: Mojave National Preserve Update; Project Update Northern and Eastern Mojave Planning; Discussion of Preserve and Wilderness Boundary Revisions; Presentation of burro census findings; and Mojave National Preserve General Management Plan Alternatives.

The Advisory Commission was established by Pub. L. 03–433 to provide for the advice on the development and implementation of the General Management Plan.

Members of the Commission are:

Micheal Attaway
Irene Ausmus
Rob Blair
Peter Burk
Dennis Casebier
Donna Davis
Nathan 'Levi' Esquerra
Gerald Freeman
Willis Herron
Eldon Hughes
Claudia Luke
Clay Overson
Norbert Riedy
Mal Wessel
Kathy Davis

This meeting is open to the public.

Mary G. Martin,

Superintendent, Mojave National Preserve.

[FR Doc. 97–3663 Filed 2–12–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. § 9622(d)(2), notice is hereby given that on January 30, 1997, a Consent Decree was lodged in *United States* v. *E.I. DuPont deNemours et al.*, Civil Action No. 3:CV–97–149, with the United States District Court for the Middle District of Pennsylvania.

The Complaint in this case was filed under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. §§ 9606 and 9607, with respect to the Bell Landfill Superfund Site located in Bradford County, Pennsylvania, against E.I. DuPont deNemours & Co., GTE Operations Support, Inc., and Masonite Corporation. Pursuant to the terms of the Consent Decree, which resolves claims under the above-mentioned statute and under Section 7003 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6973, the settling defendants will perform the clean-up of the site, which EPA estimates will cost $3,500,000, reimburse the Superfund for response costs incurred by the United States in the amount of $176,000, and reimburse the Commonwealth of Pennsylvania for response costs in the amount of $35,000.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *E.I. DuPont deNemours et al.*, Civil Action No. 3:CV–97–149, DOJ Ref. No. 90–11–3–1390A. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA.

The proposed Consent Decree may be examined at the office of the United States Attorney, Middle District of Pennsylvania, 228 Walnut Street, Federal Building, Suite 217, Harrisburg, Pennsylvania. Copies of the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202–624–0892) and the offices of the Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. When requesting a copy by mail, please enclose a check in the amount of $25.75 (twenty-five cents per page reproduction costs) payable to the ''Consent Decree Library.''

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–3636 Filed 2–12–97; 8:45 am]

BILLING CODE 4410–15–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Franklin Smelting & Refining Corp.*, Civil Action No. 97–0821, was lodged on February 4, 1997 with the United States District Court for the Eastern District of Pennsylvania.

The complaint, filed contemporaneously with the lodging of the proposed consent decree, sought civil penalties and injunctive relief against Franklin Smelting & Refining Corporation (''Franklin Smelting'') under the Clean Air Act. The complaint alleged that Franklin Smelting has violated the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, and the Pennsylvania Implementation Plan.

Under the proposed consent decree, Franklin Smelting has agreed to install and operate pollution control equipment, including building enclosures and baghouse systems at its facility at Castor Avenue of Richmond Street, Philadelphia, Pennsylvania, and pay $50,000 in civil penalties. The settlement is based on a demonstration by Franklin Smelting of its financial inability to pay the United States for any additional civil penalties.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530–0001 and should refer to *United States* v. *Franklin Smelting & Refining Corp.*, DOJ Ref. #90–5–2–1–2041.

The proposed consent decrees may be examined at the United States Attorney's Office, Eastern District of Pennsylvania, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106–4476; Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania 19107–4431; and at the Consent Decree Library, 1120 ''G'' Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed decrees may be obtained in person or by mail from the Consent Decree Library at the address listed above. In requesting a copy, please refer to the referenced case and number, and enclose a check in the amount of $30.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–3637 Filed 2–12–97; 8:45 am]

BILLING CODE 4410–15–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Bell Communications Research, Inc.

Notice is hereby given that, on November 14, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Bell Communications Research, Inc. (''Bellcore'') has filed written notifications on behalf of Bellcore; Lucent Technologies, Inc. (''Lucent''); AT&T Corporation (''AT&T''); Bell Atlantic Network Services, Inc. (''Bell Atlantic''); Southwestern Bell Technology Resources, Inc. (''TRI''); BellSouth Telecommunications, Inc. (''BellSouth''); and Pacific Telesis Group (''Pacific'') simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Lucent, Murray Hill, NJ; and TRI, Austin, TX have become members of the consortium.

No other changes have been made in the membership, nature and objectives of the consortium and Bellcore will file additional written notifications disclosing all changes in membership.

On November 29, 1994, Bellcore filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on April 13, 1995 (60. Fed. Reg. 18856).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–3638 Filed 2–12–97; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum E&P Research Cooperative

Notice is hereby given that, on January 16, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.*, (''the Act''), Petroleum E&P Research Cooperative (''Cooperative'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Texas Engineering Experiment Station, a component of the Texas A&M University System; Amoco Production Company, Houston, TX; ARCO Exploration and Production Technology, Plano, TX; Exxon Production Research Company, Houston, TX; Mobil Technology Company, Farmers Branch, TX; Shell E&P Technology Company, Houston, TX; and Texaco Group Inc., Houston, TX. The Cooperative was formed by a written agreement dated October 16, 1996, to develop new and improved technology to meet the needs of the exploration and production functions of the petroleum industry in areas where joint research is appropriate. Membership is open to other companies that (directly or through affiliates) derive substantial revenues from petroleum exploration and production activities and do not receive significant revenues from involvement in the petroleum service industry.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–3639 Filed 2–12–97; 8:45 am]

BILLING CODE 4410–11–M

Drug Enforcement Administration

Manufacturer of Controlled Substances, Notice of Registration

By Notice dated July 31, 1996, and published in the Federal Register on August 8, 1996, (61 FR 41427), Allen, Dovensky & Company, Inc., 3529 Lincoln Highway, Thorndale, Pennsylvania 19372, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of morphine (9300), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Allen, Dovensky & Company, Inc. to manufacture morphine is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: January 28, 1997.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–3643 Filed 2–12–97; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 96–25]

Barbara H. Briner, M.D.; Denial of Application

On March 19, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Barbara H. Briner, M.D., (Respondent), of Humble and Houston, Texas, notifying her of an opportunity to show cause as to why DEA should not deny her application for a DEA Certificate of Registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged, in substance, that (1) Respondent's Texas Department of Public Safety (DPS) controlled substance registration expired on March 31, 1995, and has not been renewed; and (2) by order dated June 28, 1995, the Texas State Board of Medical Examiners (Board) placed Respondent on probation for five years and prohibited Respondent from prescribing, administering or dispensing any controlled substances.

On April 5, 1996, Respondent filed a timely request for a hearing, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On April 17, 1996, Judge Bittner issued an Order for Prehearing Statements. On April 23, 1996, in lieu of filing such a statement, the Government filed a motion for summary disposition, which noted that while Respondent's DPS registration had expired on March 31, 1995, it was subsequently renewed on February 20, 1996. It further alleged however, that Respondent was not currently authorized to handle controlled substances in the State of Texas in light of Respondent's Agreed Order with the Board effective June 28, 1995. Respondent did not submit a response to the Government's motion.

On June 14, 1996, Judge Bittner issued a ruling denying the Government's motion, finding that it was unclear whether the Agreed Order prohibited Respondent from handling controlled substances at all or whether it merely restricted Respondent's handling of controlled substances if both DEA and DPS issue her controlled substance registrations. The Judge's ruling did not preclude the Government from renewing its motion for summary

disposition upon clarification from the Board that Respondent is unable to handle controlled substances in the State of Texas.

On June 20, 1996, the Government renewed its motion for summary disposition. Its motion was accompanied by a letter from the Board dated June 19, 1996, which states that under the Agreed Order, Respondent ''is not authorized to 'prescribe, administer, or dispense any controlled substance' even if the Drug Enforcement Administration were to grant her certificate for same.'' Thereafter, on June 21, 1996, Judge Bittner issued her Opinion and Recommended Decision, finding that based upon the evidence before her, Respondent lacked authorization to handle controlled substances in the State of Texas; granting the Government's motion for summary disposition; and recommending that Respondent's application for a DEA Certificate of Registration be denied. Neither party filed exceptions to her opinion, and on July 24, 1996, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 C.F.R. 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he/she conducts business. 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 FR 51,104 (1993); James H. Nickens, M.D., 57 FR 59,847 (1992); Roy E. Hardman, M.D., 57 FR 49,195 (1992). In the instant case, the record indicates that Respondent is not currently authorized to handle controlled substances in the State of Texas. As Judge Bittner notes, ''[i]t is equally clear that because Respondent lacks this state authority, she is not currently entitled to a DEA registration.''

In her letter dated April 5, 1996, Respondent had noted that the terms of the Agreed Order would be subject to amendment one year after issuance of the order. However, the Acting Deputy Administrator finds that there is nothing in the record to indicate that there has been any amendment to the terms of the Agreed Order. Accordingly, the Acting Deputy Administrator concurs with Judge Bittner's conclusion that Respondent is not currently authorized to handle controlled substances and therefore is not entitled to a DEA registration.

Judge Bittner also properly granted the Government's motion for summary disposition. Here, the parties did not dispute the fact that Respondent was unauthorized to handle controlled substances in Texas. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Dominick A. Ricci, M.D., supra, (finding it well settled that where there is no question of material fact involved, a plenary, adversarial administrative hearing was not required.); see also *Phillip E. Kirk, M.D.,* 48 FR 32,887 *(1983, aff'd sub nom Kirk* v. *Mullen,* 749 F. 2d 297 (6th Cir). 1984); *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO,* 549 F. 2d 634 (9th Cir. 1977).

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 C.F.R. 0.100(b) and 0.104, hereby orders that the application submitted by Barbara H. Briner, M.D. for a DEA Certificate of Registration be, and it hereby is, denied. This order is effective March 17, 1997.

Dated: February 4, 1997.

[FR Doc. 97–3640 Filed 2–12–97; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances Application

Pursunat to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 11, 1996, Isotec, Inc., 3858 Benner Road, Miamisburg, Ohio 45342, made application, which was received for processing December 30, 1996, by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Acetylmethadol (9601)	I
Alphacetylmethadol Except Levo-Alphacetylmethadol (9603)	I
Normethadone (9635)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgoine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Levo-Alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The firm plans to use small quantities of the listed controlled substances to produce standards for analytical laboratories.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug

Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 14, 1997.

Dated: January 27, 1997.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–3659 Filed 2–12–97; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances, Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 24, 1996, MD Pharmaceutical, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)	II
Diphenoxylate (9170)	II

The firm plans to manufacture the listed controlled substances to make finished dosage forms for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 14, 1997.

Dated: January 27, 1997.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–3642 Filed 2–12–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of January, 1997.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–32,901; American Commercial Vehicles, Stamping & Assembling Div., Orrville, OH

TA–W–32,903; NOW Products, Inc., Chicago, IL

TA–W–32,817; Ingersoll-Dresser Pump Co., Phillipsburg, NJ

TA–W–32,829; DuPont Films, Holly Run Plant, Newport, DE

TA–W–32,935; Borg Warner Automotive, Muncie, IN

TA–W–33,022; Quality Apparel Manufacturing, Inc., New Bedford, MA

TA–W–32,979; Collegeville Flag and Manufacturing Co., Port Clinton, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–33,038; United Healthcare Corp. (Formerly Metra Health Corp), Milwaukee, WI

TA–W–32,978; CSCS Caribbean N.V., Miami, FL

TA–W–32,959; Bowdon Manufacturing Co., Bowdon, GA

TA–W–33,101; Donnkenny Apparel, Inc., Mantachie Warehouse/ Mustang Warehouse, Mantachie, MS

TA–W–32,790 & A; Walker Information, Inc., Indianapolis, IN and Tempe, AZ

TA–W–33,082; World Airways, Herdon, VA

TA–W–33,023; Associated Food Stores, Inc., Pocatello, ID

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–32,841; Kensington Window, Inc., Vandergrift, PA

The investigation revealed that criteria (1) and criteria (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA–W–32, 866; W.W.I., Inc., Dover Products Div., Dover, TN

TA–W–32, 967; Hasbro, Inc/Pant Ease, Arcade, NY

TA–W–32, 951; AMP, Inc., Erie, PA

TA–W–33, 061; Ball-Foster Glass Container Co., Laurens, SC

TA–W–32, 969; NEC Technologies, Inc (NECTECH), Northboro, MA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–32, 822; Anchor Advance Product, Inc., Morristown, TN

The investigation revealed that production of toothbrushes was transferred to a plant in Puerto Rico. Puerto Rico is a commonwealth of U.S. and therefore, it is considered domestic U.S. production for purposes of the Trade Act of 1974.

TA–W–32, 963; Sunbeam (Outdoor products), Portland, TN

TA–W–32, 879; Agway, Inc., Country Product Group, Waverly, NY

Layoffs are related to a company decision to transfer production performed at the subject firm to other domestic locations.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W–33, 081; Rohm and Haas, Inc., Bristol, PA: December 31, 1995.
TA–W–33, 005; Dystar L.P., Coventry, RI: November 19, 1995.
TA–W–33, 003; Maidenform, Inc., Bayonne, NJ; November 24, 1995.
TA–W–32, 957; Apex Sportswear, New York, NY: November 18, 1995.
TA–W–32, 877; Hamilton Beach-Proctor Silex, Inc., Southern Pines, NC: October 16, 1995.
TA–W–32, 987; The Vineyard, Inc., Clovis, NM: November 14, 1995.
TA–W–32, 936; Norman Manufacturing Co., Philadelphia, PA: October 15, 1995.
TA–W–32, 984; Crossville Apparel Manufacturing Co., Crossville, TN: November 14, 1995.
TA–W–32, 851; Craddock-Terry, Inc., Halifax Plant, Halifax, VA: October 16, 1995.
TA–W–32, 940; Genesco, Inc., Laredo and Code West Divisions, Hohenwald, TN: November 7, 1995.
TA–W–32, 815; Opto Technology, Inc., Platteville, WI: September 20, 1995.
TA–32, 854; Advanced Metallurgy, Inc., McKeesports, PA: October 11, 1995.
TA–W–32, 988 & A; Dazey Corp., Osage City, KS and New Century, KS: November 18, 1995.
TA–W–32, 966; D.S. Knitting, White Plains, PA: November 25, 1995.
TA–W–32, 971 & TA–W32, 972; The Boyt Co., Iowa Falls, IA & Bedford, IA: November 12, 1995.
TA–W–32, 947; Sunbeam Household Products, Coushatta, LA: October 14, 1995.
TA–W–32, 946; Flintab SK Machine, Inc. Div of Flintab, Inc., North Falmouth, MA: November 6, 1995.
TA–W–33, 040; CWS Fashions, Inc., Lenoir, NC: December 5, 1995.
TA–W–33, 030; General Textiles, Murphy, NC: November 25, 1995.
TA–W–32,827; Vought Aircraft Co., Commercial Aircraft Div, A Subsidiary of Northrop Grumman Corp., Dallas, TX: November 16, 1996.
TA–W–32,941; Kimble Glass, Inc., Vineland, NJ.

All workers engaged in the production coffee carafes who became totally or partially separated from employment on or after October 8, 1995. All workers engaged in the production of hurricane shades and latern globes are denied.

TA–W–32,976; Custom Stitchers II, Lewiston, ME: October 30, 1995.
TA–W–32,965; Hawk Golf Bag Co., Clarion, IA: November 13, 1995.
TA–W–32,856; TRI County Assembly, Williamsburg, KY: October 5, 1995.
TA–W–32,797; Joslyn Power Products Div., Alsip, IL: September 20, 1995.
TA–W–32,799; Camden Wire Co., Inc., Camden, NY: September 25, 1995.
TA–W–32,925; Ferraz Corp., Parsippany, NJ: October 30, 1995.
TA–W–32,961; Killark Electric Manufacturing Co., St. Louis, MO: November 14, 1995.
TA–W–32,942; Peach state Limited, Chester, GA: November 5, 1995.
TA–W–32,991; Channel Lumber Co., Graigmont, ID: January 24, 1997.
TA–W–32,973; Wex-Tex Industries, Inc., Dothan, AL: November 15, 1995.
TA–W–32,850; Craddock-Terry, Inc., Farmville Plant, Farmville, VA: October 16, 1995.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of January, 1997.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–01359; Quality Apparel Manufacturing, Inc., New Bedford, MA
NAFTA–TAA–01408; ACU-Crimp, Inc., North Manufacturing Div., Mesick, MI
NAFTA–TAA–01341; Willamette Industries, Inc., Dallas, OR
NAFTA–TAA–01322 & A; Barclay Home Products, Cherokee, NC and Robbinsville, NC
NAFTA–TAA–01360; Wex Tex Industries, Inc., Dothan, AL
NAFTA–TAA–01405; McDonnell Douglas, Long Beach, CA
NAFTA–TAA–01329; Eaton Corp., Automotive Controls Div., Wauwatosa, WI
NAFTA–TAA–01336; Praxair, Inc., Tonawanda, NY
NAFTA–TAA–01416; American Home Products Corp., Wyeth-Ayerst Laboratories, Mason, MI
NAFTA–TAA–01378; All American Apparel, Inc., Salem, MO
NAFTA–TAA–01281; Mount Source, Inc., Newport Beach, CA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–01385; Butler Sales Agency, Inc., Eau Claire, WI
NAFTA–TAA–01352; Lucent Technologies, Consumer Products Div., Atlanta, GA
NAFTA–TAA–01374; United Healthcare Corp (Formerly Metra Health Corp), Milwaukee, WI
NAFTA–TAA–01331; Pennsylvania Food Merchants Association, Pennsylvania Coupon Redemption Services Div., and Merchants Express Money Order Co Div., Wormleysburg, PA

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name and location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–01358; The Vineyard, Inc., Colvis, NM: November 14, 1995.
NAFTA–TAA–01298; Will Knit, Inc., Clayton, NC: October 22, 1995.
NAFTA–TAA–01383; Ciba-Geigy Corp., Textile Products Div., Toms River, NJ: October 16, 1995.

NAFTA–TAA–01380; CWS Fashions, Inc., Lenoir, NC: December 11, 1995.

NAFTA–TAA–01261; Joslyn Power Products Corp., Alsip, IL: September 30, 1995.

NAFTA–TAA–01388; Premium Manufacturing, Inc., Gilbert, AZ: December 16, 1995.

NAFTA–TAA–01364; Channel Lumber Co., Craigmont, ID: November 21, 1995.

NAFTA–TAA–01351, A & B; Masterwear Corp., Lexington Apparel, Lexington, TN, Ripley, TN and Somerville, TN: November 20, 1995.

NAFTA–TAA–01379; Hamilton Beach/ Proctor Silex, Inc., Washington, NC: November 27, 1995.

NAFTA–TAA–01369; Tuff-N-Nuff Products, Good Hope, GA: December 3, 1995.

NAFTA–TAA–01395; Modine Manufacturing Co., Modine Heat Transfer, Inc., Camdenton, MO: December 16, 1995.

NAFTA–TAA–01327; Connor Rubber Technologies, Connor Corp., Fort Wayne, IN: October 31, 1995.

I hereby certify that the aforementioned determinations were issued during the month of January, 1997. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 30, 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–3601 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of January, February, 1997.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–33, 924; Cooper Firearms, Inc., Stevensville, MT

TA–W–33, 032; All American Apparel, Inc., Salem, MO

TA–W–33, 024; Eagle Nest, Inc., Johnstown, PA

TA–W–33, 092; Spalding Knitting Mills, Griffin, GA

TA–W–32, 974; Sprague, North Adams, Inc., North Adams, MA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–33, 044; Butler Sales Agency, Inc., Eau Claire, WI

TA–W–32, 858; Volkswagen of America, Distribution & Auto Service Center, Port of Washington, DE

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–33, 133; Watauga Industries, Elizabethton, TN

The investigation revealed that criteria (1) and criteria (3) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA–W–32, 883; American Banknote Co., Bedford Park, IL

TA–W–32, 847; U.S. Natural Resources, Irvington Moore Div., Portland, OR

TA–W–32, 893; Armour Swift—Eckrich Kalamazoo Plant, Kalamazoo, MI

TA–W–32, 907; Bartell Machinery System Corp., Rome, NY

TA–W–33, 007; Barth & Dreyfus of California, Albemarle, NC

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–32,905; W.C. Curdy Co., Oxford, MI

The subject firm transferred a majority of its production from Oxford, MI to another company with manufacturing at domestic locations in the relevant period.

TA–W–32,910; Conoco, Inc., Downstream Operations, Headquartered in Houston, TX & Operating at Locations in Various States: A; GA, B; KS, C; LA, D; OK, E; MN, F; MS, G; MT, H; NC, I; NE, J; NM, K; SC, L; TN, M; TX, N; VA, O; WY

U.S. imports of refined petroleum products and motor gasoline were very low relative to domestic production in Oct-Sept 1995–1996 time period.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W–32,930; M. Fine & Sons Mfg Co., Inc., New Albany, IN: November 12, 1995.

TA–W–32,986; Bell Oil Tools, Great Bend, KS: November 8, 1995.

TA–W–32,001; Professional Manufacturing, Inc., Paris, ID: November 22, 1995.

TA–W–32,980; TRW Vehicle Safety Systems, Inc., Louisville, MS: November 13, 1995.

TA–W–33,018; California Fashions Industries, Inc., Los Angles, CA: November 26, 1995.

TA–W–32,996; Fruit of the Loom, Raymondville Apparel, Raymondville, TX: November 22, 1995.

TA–W–32,898; J.H. Collectibles, Inc., Nevada, MO: October 21, 1995.

TA–W–32,884; Staflex/Harotex Taylors, SC: October 21, 1995.

TA–W–32,872; Tri-Con Industries Ltd., Livingston, TN: October 8, 1995.

TA–W–32,859; Western Supplies Co., St. Louis, MO: October 9, 1995.

TA–W–32,865; Warnaco, Inc., Olga Div., Van Nuys, CA: October 9, 1995.

TA–W–33,027; Hanna Instruments, Inc., Woonsocket, RI: November 27, 1995.

TA–W–33,046; Kalina Sportwear, Inc., Hammonton, NJ: December 9, 1995.

TA–W–33,064; Kranco Browning, Inc., Orley Meyer Div (Formerly a Div. of the Nanitowoc Co., Inc., Big Bend, WI: December 12, 1995.

TA–W–32,880; United Technologies Automotive, Inc., Steering Wheels Div., Niles, MI: October 15, 1995.
TA–W–32,914; Chicago Pneumatic Tool Co., Utica, NY: October 16, 1995.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of January and February, 1997.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–01400; Kranco Browning, Inc., Orley Meyer Div., (Formerly a Div. of The Manitowoc Co., Inc.), Big Bend, WI
NAFTA–TAA–001417; Van Den Bergh Foods, Vernon, CA MI
NAFTA–TAA–01282; Spalding Knitting Mills, Griffin, GA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

None.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–01367; California Fashions Industries, Inc., Los Angeles, CA: November 26, 1995.
NAFTA–TAA–01350; Dayco Products, Inc., Waynesville, NC: November 11, 1995.
NAFTA–TAA–01415; D.S. Knitting, White Mills, PA: January 8, 1996.
NAFTA–TAA–01302; United Technologies Automotive, Inc., United Steering Wheels, Niles, MI: October 23, 1995.
NAFTA–TAA–01386; Kalina Sportswear, Inc., Hammonton, NJ: December 9, 1995.
NAFTA–TAA–01399; Siemans Energy and Automation, Inc., Industrial Products Div., Little Rock, AR: December 23, 1995.
NAFTA–TAA–01390; Cesare's Apparel, Inc., Danielsville, PA: December 17, 1995.

I hereby certify that the aforementioned determinations were issued during the month of January and February, 1997. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 5, 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–3599 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,962 and NAFTA–01337]

Rayonier, Incorporated, Port Angeles Mill, Port Angeles, WA; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of January 20, 1997, a company official requested administrative reconsideration of the Department of Labor's Notices of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistant (TA–W–32,962) and NAFTA-Transitional Adjustment Assistance (NAFTA–01337) for workers of the subject firm. The denial notice for TA–W–32,608 was signed on December 27, 1996, and published in the Federal Register on February 3, 1997 (52 FR 5049). The denial notice for NAFTA–01337 was signed on December 18, 1996, and published in the Federal Register on December 31, 1996 (61 FR 69110).

The petitioner presents evidence that the Department's investigation was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 4th day of February 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–3606 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,090]

Chicago Pneumatic Tool Company, Industrial Tool Division, Utica, NY; Notice of Termination of Certification

This notice terminates the Determination Regarding Eligibility to Apply For Worker Adjustment Assistance issued by the Department on May 31, 1996, applicable to workers of Chicago Pneumatic Tool Company, Industrial Tool Division located in Utica, New York. The notice was published in the Federal Register on June 20, 1996 (61 FR 31553).

The Department, on its own motion, reviewed the worker certification. Findings show that the workers produced handheld pneumatically powered construction and industrial tools. Workers producing hammers were certified eligible to apply for adjustment assistance, while workers producing industrial tools were denied.

On January 30, 1997, the Department issued a certification of eligibility applicable to all workers of Chicago Pneumatic Tool Company in Utica, New York, TA–W–32,914. Workers separated from employment with the subject firm on or after October 16, 1995 until January 30, 1999, are eligible to apply for worker adjustment assistance program benefits.

Based on this new information, the Department is terminating the

certification for petition number TA–W–32,090. Further coverage for workers under this certification would serve no purpose, and the certification has been terminated.

Signed at Washington, D.C., this 6th day of February 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–3604 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than February 24, 1997.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than February 24, 1997.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 21st day of January, 1997.

Russell T. Kile,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitions Instituted on January 21, 1997

TA–W	Subject firm (petitioners	Location	Date of petition	Product(s)
33,095	General Electric Co. (IUE)	Pittsfield, MA	01/07/97	Arrestors & Transformers.
33,096	Ametek-March Electric (Wkrs)	Cambridge, OH	01/08/97	Rotating Fans.
33,097	Will Knit, Inc. (Comp)	Clayton, NC	10/16/96	Knit Fabrics for Apparel.
33,098	Rohn and Haas Delaware (Wkrs)	Philadelphia, PA	12//26/96	Ion Exchange Resins.
33,099	Chase Packaging (UNITE)	Portland, OR	12/03/97	Woven Bags.
33,100	McCulloch Corp. (Comp)	Tucson, AZ	01/03/97	Chain Saws, Trimmers, Blowers.
33,101	Donnkenny Apparel (Comp)	Mantachie, MS	12/26/96	Warehousing & Distribution of Apparel.
33,102	Riverwood International (Wkrs)	Kankakee, IL	01/02/97	Vertipak and Webbed Cartons.
33,103	Dynafiber, Inc. (Comp)	Stevenson, WA	12/23/96	Windsurfing Masts and Booms.
33,104	ISA Breeders, Inc. (Wkrs)	Gainesville, GA	01/07/97	Vedette Baby Chicks.
33,105	NSM America (Wkrs)	Gastonia, NC	01/07/97	Juke Boxes.
33,106	Navistar International (Comp)	Waukesha, WI	12/18/96	Engine and Suspension Parts.
33,107	Systems & Electronics (IAMAW)	West Plains, MO	01/08/97	U.S. Postal Equipment.
33,108	Belden Wire and Cable (Comp)	Apple Creek, OH	01/09/97	Power Supply Cords.
33,109	Montana Power Co. (Wkrs)	Butte, MT	12/31/97	Gas and Electricity.
33,110	Sherwood Davis Geck (Wkrs)	Danbury, CT	01/13/97	Hospital Sutures and Needles.
33,111	Davol, Inc. (Comp)	Cranston, RI	01/03/97	Medical & Surgical Instruments.

[FR Doc. 97–3602 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than February 24, 1997.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than February 24, 1997.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, D.C. this 27th day of January, 1997.

Russell T. Kile,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX—PETITIONS INSTITUTED ON 01/27/97

TA–W	Subject firm (Petitioners)	Location	Date of petition	Product(s)
33,112	Hecla Mining Company (Wkrs)	Challis, ID	01/05/97	Gold and silver.
33,113	AB Electrolux of Sweden (Wkrs)	Greenville, MI	01/09/97	Refrigerators.
33,114	Bock Pharmacal Company (Wkrs)	St. Louis, MO	01/13/97	Distribute prescription drug products.
33,115	Comfort Care Products (Wkrs)	Pontotoc, MS	01/16/97	Medical soft goods.
33,116	Koppers Industrial (Co.)	Houston, TX	01/09/97	Coal tar electrode binder pitch.
33,117	Halliburton Energy (Wkrs)	Homer City, PA	01/08/97	Natural gas.
33,118	Adcor-Nicklos Drilling (Wkrs)	Williston, ND	01/03/97	Oil and gas.
33,119	Siemens Electromechanical (Wkrs)	Marion, KY	12/06/97	Relays, circuit breakers.
33,120	Philips Lighting Co. (IUE)	Fairmont, WV	01/06/97	Home lighting products.
33,121	Badger Northland, Inc (USWA)	Kaukauno, WI	01/08/97	Farm equipment.
33,122	Grace Apparel (Wkrs)	Galax, VA	01/10/97	Men's tee & sweat shirts, fleece pants.
33,123	Roadmaster Corp (Wkrs)	Olney, IL	01/07/97	Bicycles.
33,124	Kaufman Footwear Corp (Wkrs)	Batavia, NY	12/19/97	Cut leather for boots and shoes.
33,125	New River Castings (Wkrs)	Radford, VA	12/31/96	Ductile castings iron.
33,126	Norton Company (Wkrs)	Worcester, MA	01/14/97	Grinding wheels & other abrasive prod.
33,127	Character Sportswear (UNITE)	New York, NY	01/07/97	Ladies' sportswear.
33,128	Stanley Tools (Co.)	Shelbyville, TN	01/09/97	Hammers, chisels, nail pullers, etc.
33,129	River Run (Wkrs)	Selma, AL	01/23/97	Men's jeans.
33,130	Zenith Electronics (Wkrs)	McAllen, TX	12/20/96	Televisions, VCR's etc.
33,131	Carolina Knits, Inc (Wkrs)	Statesville, NC	01/15/97	Raw cotton & cotton blend fabric.
33,132	Snap-Tite, Inc (USWA)	Union City, PA	01/09/97	Couplers for fluid power transmissions.
33,133	Watauga Industries (Wkrs)	Elizabethton, TN	12/12/96	Dying & finishing fabrics.

[FR Doc. 97–3600 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,611]

J.M. Huber Corporation, Oil and Gas Division, Houston, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 21, 1996, applicable to all workers of J.M. Huber Corporation, Oil and Gas Division located in Houston, Texas. The notice was published in the Federal Register on September 13, 1996 (61 FR 48504).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that the Department incorrectly set the impact date at July 26, 1995. The workers at the subject firm were covered under an earlier certification, TA–W–29,330, which expired March 9, 1996. The Department is amending the current certification for workers of J.M. Huber Corporation, Oil and Gas Division to set the impact date at March 9, 1996.

The amended notice applicable to TA–W–32,611 is hereby issued as follows:

All workers of J.M. Huber Corporation, Oil and Gas Division, Houston, Texas who became totally or partially separated from employment on or after March 9, 1996 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of February 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–3609 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,881]

National Food Products Limited Reading, Pennsylvania; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of January 7, 1997, a company official requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, petition under TA–W–32,881, for workers of the subject firm. The denial notice was signed on December 16, 1996, and published in the Federal Register on December 31, 1996 (61 FR 69110).

The petitioner presents new evidence that the Department's survey of the subject firm's customers was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 4th day of February 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–3607 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,800]

TRW Automotive Products Remanufacturing A/K/A TRW Automotive Holding Company A/K/A TRW, Incorporated McAllen, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on November 25, 1996, applicable to all workers of TRW Automotive Products Remanufacturing located in McAllen, Texas. The notice was published in the Federal Register on December 24, 1996 (61 FR 67858).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of remanufactured rack and pinion steering units. The company reports that some of the workers separated from employment had their wages reported under two separate unemployment insurance (UI) tax accounts, TRW Automotive Holding Company and TRW, Incorporated. Accordingly, the

Department is amending the certification to reflect this matter.

The amended notice applicable to TA–W–32,800 is hereby issued as follows:

All workers of TRW Automotive Products Remanufacturing, also known as TRW Automotive Holding Company, also known as TRW, Incorporated, McAllen, Texas, who became totally or partially separated from employment on or after September 16, 1995, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of February 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services Office of Trade Adjustment Assistance.

[FR Doc. 97–3610 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–01228]

Boise Cascade Corporation, Paper Division, Vancouver, WA; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of January 23, 1997, a company official requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The denial notice was signed on December 6, 1996, and published in the Federal Register on December 24, 1996 (61 FR 67858).

The petitioner presents evidence that the Department's investigation was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 4th day of February 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–3605 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–001365]

Dudley Apparel Dudley, GA; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on December 2, 1996 in response to a petition filed on behalf of workers at Dudley Apparel, Dudley, Georgia.

This case is being terminated because no information is available from petitioners or company official to complete the necessary investigation. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 6th day of February 1997.

Russell T. Kile,

Program Manager Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–3598 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 259(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Program Manager of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment of after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Program Manager of OTAA at the U.S. Department of Labor (DOL) in Washington, D.C. provided such request is filed in writing with the Program Manager of OTAA not later than February 24, 1997.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Program Manager of OTAA at the address shown below not later than February 24, 1997.

Petitions filed with the Governors are available for inspection at the Office of the Program Manager, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 6th day of February, 1997.

Russell Kile,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Dudley Apparel (Wkrs)	Dudley, GA	12/02/96	NAFTA–01365	pants and shorts.
Sau Mee Sewing (UNITE)	San Francisco, CA	11/04/96	NAFTA–01366	sewing of women's apparel.
California Fashion Industries (Co.)	Los Angeles, CA	12/05/96	NAFTA–01367	ladies garments.
Armour Swift Eckich (Wkrs)	El Paso, TX	11/21/96	NAFTA–01368	processed meats.
Tuff-N-Nuff Products (Co.)	Good Hope, GA	12/03/96	NAFTA–01369	shop towels.
J.H. Collectibles (Wkrs)	Milwaukee, WI	11/22/96	NAFTA–01370	ladies garments.
Kenneth Fox Supply; Fox Packaging (Wkrs).	McAllen, TX	12/03/96	NAFTA–01371	poly bags used to hold produce.
Associated Food Stores (Co.)	Pocatello, ID	11/18/96	NAFTA–01372	wholesale distribution of edible and non-edible products.
Andover Togs (Co.)	Clinton, NC	12/09/96	NAFTA–01373	childrens apparel.

APPENDIX—Continued

Petitioner (Union/Workers/Firm)	Location	Date received at Governor's office	Petition No.	Articles produced
United Healthcare Corporation; (formerly Metra Health Corporation) (Wkrs).	Milwaukee, WI	12/06/96	NAFTA–1374	health insurance claims.
nternational Medical Systems (Co.)	El Monte, CA	12/06/96	NAFTA–01375	pharmaceuticals.
General Textiles (Co.)	Murphy, NC	12/09/96	NAFTA–01376	men's and women's tank tops and shorts.
WCI/Domestic (Wkrs)	Mishawaka, IN	12/05/96	NAFTA–01377	R.V. Awnings.
All American Apparel (Wkrs)	Salem, MO	12/09/96	NAFTA–01378	men's and boys' knit shirts.
Hamilton Beach/Proctor Silex, Inc. (Co.)	Washington, NC	12/03/96	NAFTA–01379	small electric household appliances.
CWS Fashions (Wkrs)	Lenoir, NC	12/11/96	NAFTA–01380	children's activewear.
Homerville Textile; Hazelhurst Textile (Co.).	Homerville, GA	12/11/96	NAFTA–01381	childrens and ladies clothing.
Union City Body (UAW)	Union City, IN	12/09/96	NAFTA–01382	vans.
Ciba-Geigy Corporation; Textile Products Division (OCAW).	Toms River, NJ	12/09/96	NAFTA–01383	textiles dyes.
4 In One Screwdrivers (Wkrs)	Jamestown, NY	12/12/96	NAFTA–01384	screwdrivers.
Butler Sales Agency (Co.)	Eau Claire, WI	12/16/96	NAFTA–01385	fluorescent light fixtures.
Kalina Sportswear (ILGWU)	Hammonton, NJ	12/12/96	NAFTA–01386	ladies jackets.
U.A. Technologies (Wkrs)	Brownsville, TX	12/17/96	NAFTA–01387	gauges, welding fixtures, machine parts.
Premium Manufacturing (Co.)	Gilbert, AZ	12/17/96	NAFTA–01388	gumball machines.
Komatsu America International (IAMAW)	Galion, OH	12/18/96	NAFTA–01389	machines.
Cesare's Apparel (UNITE)	Danielsville, PA	12/17/96	NAFTA–01390	women's blouses and vests.
Van Leer Containers (Co.)	Chicago, IL	12/19/96	NAFTA–01391	industrial containers.
System One Amadeus (Co.)	Miami, FL	12/15/96	NAFTA–01392	none.
Didde Web Press (Co.)	Emporia, KS	12/19/96	NAFTA–01393	printing presses.
Vanity Fair Mills (Wkrs)	Monroeville, AL	12/19/96	NAFTA–01394	ladies lingerie, bras, panties, slips, gowns, robes.
Modine Manufacturing; Modine Heat Transfer (Co.).	Camdenton, MO	12/18/96	NAFTA–01395	heat transfer surfaces and copper tubular components.
Now Products (Co.)	Chicago, IL	12/19/96	NAFTA–01396	bean bags.
Atlantic Steel (USWA)	Atlanta, GA	12/19/96	NAFTA–01397	billets, steel products.
Diana Manufacturing (Wkrs)	Westville, NJ	12/20/96	NAFTA–01398	shirts.
Siemans Energy And Automation; Industrial Products Division (IUE).	Little Rock, AR	12/23/96	NAFTA–01399	electric motors.
Kranco Browning; Orley Meyer Division (Wkrs).	Big Bend, WI	12/23/96	NAFTA–01400	overhead bridge cranes.
Blue Bird Fabrics (UNITE)	York, PA	12/23/96	NAFTA–01401	woven material.
Franklin Disposables (Co.)	Columbus, OH	12/12/96	NAFTA–01402	nylon hairnets.
United Technologies (IBEW)	Zanesville, OH	12/18/96	NAFTA–01403	wire harnesses.
Topps Company (The) (IBT)	Duryea, PA	12/24/96	NAFTA–01404	wrappers.
McDonnell Douglas (UAW)	Long Beach, CA	12/27/96	NAFTA–01405	commercial passenger aircraft.
Ball-Foster Glass Container (Wkrs)	Laurens, SC	12/30/96	NAFTA–01406	glass containers.
SGL Carbon (IUE)	St. Mary's, PA	01/03/97	NAFTA–01407	electric brushes for motors.
ACU-Crimp; North Manufacturing Division (Wkrs).	Mesick, MI	12/17/96	NAFTA–01408	wire crimping dies.
Cosco (Co.)	Bremen, GA	01/02/97	NAFTA–01409	juvenile and baby furniture upholstery.
Maidenform (Wkrs)	Bayonne, NJ	12/30/96	NAFTA–01410	bras, panties, and foundations.
Mallinckrodt Medical (Wkrs)	Argyle, NY	12/31/96	NAFTA–01411	medical devices.
Montana Power Company (Wkrs)	Butte, MT	12/31/96	NAFTA–01412	gas and electricity.
McCulloch Corporation	Tucson, AZ	01/06/97	NAFTA–01413	chain saws, string trimmets, electric outdoor power.
Laurel Engineering (Wkrs)	San Diego, CA	01/09/97	NAFTA–01414	heavy duty conveying equipment for mining.
D.S. Knitting (Co.)	White Mills, PA	01/08/97	NAFTA–01415	children's sweaters.
American Home Products; Wyeth-Ayerst Laboratories (Wkrs).	Mason, MI	01/09/97	NAFTA–01416	baby and adult formula.
Van Den Bergh Foods (Wkrs)	Vernon, CA	01/09/97	NAFTA–01417	margarine and spread.
Navistar International Transportation (USWA).	Waukesha, WI	01/09/97	NAFTA–01418	line assembly.
TSA Breeders (Wkrs)	Gainesville, GA	01/08/97	NAFTA–01419	hatching vedette chicks.
Rincaid Enterprises (Wkrs)	Nitro, WV	01/06/97	NAFTA–01420	chemicals.
Sherwood Davis and Geck (Co.)	Danbury, CT	01/09/97	NAFTA–01421	hospital products.
Pak 2000 (Wkrs)	Lancaster, NH	01/09/97	NAFTA–01422	paper bags.
Industrial Dynamics (Wkrs)	Torrance, CA	01/13/97	NAFTA–01423	automated inspection and test equipment.
Amphenol Corporation; Amphenol Aerspace Operations (IAMAW).	Sidney, NY	01/13/97	NAFTA–01424	assembly and brush connector.
Badger Northland (USWA)	Kaukauna, WI	01/13/97	NAFTA–01425	farm equipment, truck mounted watertanks.
Systems and Electronics (IAMAW)	West Plains, MO	01/14/97	NAFTA–01426	Electrical assembly.

APPENDIX—Continued

Petitioner (Union/Workers/Firm)	Location	Date received at Governor's office	Petition No.	Articles produced
SVO Specialty Products; Lubrizol Corporation (Wkrs).	Culbertson, MT	01/30/97	NAFTA–01427	vegetable oil and seed.
Stanley Works (The); Stanley Tools (Co.).	Shelbyville, TN	01/13/97	NAFTA–01428	striking tools (hammers and chisels).
Sara Lee Hosiery (Wkrs)	Hartsville, SC	01/15/97	NAFTA–01429	hosiery.
Halliburton Energy Services (Wkrs)	Homer City, PA	01/14/97	NAFTA–01430	natural gas and oil.
Terex Corporation (IAM)	Tulsa, OK	01/15/97	NAFTA–01431	truck parts.
Pak-Mor Manufacturing (Wrks)	Duffield, VA	01/07/97	NAFTA–01432	truck mounted refuse packer bodies.
Portac, Inc. (WCIW)	Tacoma, WA	01/17/97	NAFTA–01433	softwood dimension lumber.
Zenith Electronics (Wkrs)	McAllen, TX	01/17/97	NAFTA–01434	warehousing.
Mead Corporation; Mead School and Office Products and Office Products (UPIU).	Saint Joseph, MO ..	01/15/97	NAFTA–01435	school and office products.
Bink Sames (IAMAW)	Franklin Park, IL	01/14/97	NAFTA–01436	paint spraying equipment.
Lance Garment (Co.)	Redbay, AL	01/21/97	NAFTA–01437	Mens casual button up shirts.
Sunbeam Outdoor Products (USWA)	Portland, TN	01/16/97	NAFTA–01438	Light-weight outdoor patio furniture.
Mid-American Dairymen (Wkrs)	Sabetha, KS	01/15/97	NAFTA–01439	Dairy products.
Crystal Mills; Monroe Apparel (Wkrs)	Charlotte, NC	01/23/97	NAFTA–01440	Textile, t-shirts, sweatshirts, shorts, etc.
Webcraft James (IAU)	No. Brunswick, NJ	01/16/97	NAFTA–01441	Printing of lottery tickets.
AMP, Inc.; Global Personal Computer (Wkrs).	Roanoke, VA	01/17/97	NAFTA–01442	Machinery.
Allied Signal; Truck Brake Systems (UAW).	Charlotte, NC	01/21/97	NAFTA–01443	Components for heavy truck air brake systems.
Commemorative Brands (Wkrs)	N. Attleboro, MA	01/22/97	NAFTA–01444	Balfour rings.
Federal Mogul; Federal Mogul Lighting (Wkrs).	Leiters Ford, IN	01/21/97	NAFTA–01445	Lighting products.
Rami Fashions (Wkrs)	Allentown, PA	01/22/97	NAFTA–01446	Shirts, dresses, pants, jackets.
Landis and Gyr Utilities Services (IUE) ..	Lafayette, IN	01/28/97	NAFTA–01447	Electro-mechanical single phase electricity meter.
R and S Dress Mfg. (Wkrs)	Shippens-burg, PA	01/28/97	NAFTA–01448	Childrens dresses.
Indeck; Indeck Energy Services (IBEW)	Turners Falls, MA ..	01/28/97	NAFTA–01449	Energy.
Clinton Mills; Lydia Plant (Wkrs)	Clinton, NC	01/28/97	NAFTA–01450	Cloth.
Westinghouse Electric Corps. (Wkrs)	Pensacola, FL	01/27/97	NAFTA–01451	Electrical generators.
Krupp Gerlach; Crankshaft Division (Forging) (UAW).	Danville, IN	01/27/97	NAFTA–01452	Cummins and caterpillar crankshafts.
Carolina Knits (Wkrs)	Statesville, NC	01/27/97	NAFTA–01453	Knit fabrics.
Dixie Kids (Wkrs)	Fayetteville, NC	01/27/97	NAFTA–01454	Children clothes.
J And J Group (Wkrs)	Waynesboro, PA	01/27/97	NAFTA–01455	Ladies clothing, skirt, blouses, pants, dresses.
American Fiber Resources L.P. (Co.)	Fairmount, WV	01/21/97	NAFTA–01456	Deinked market pulp.
Kahn Lucas Lancaster (Wkrs)	Columbia, PA	01/27/97	NAFTA–01457	Childrens dresses/sewing.
A.B. Electrolux Corps.; Frigidaire Home Products (UAW).	Greenville, MI	01/21/97	NAFTA–01458	Refrigerators.
Leer Southeast (Co.)	Conyers, GA	01/24/97	NAFTA–01459	Truck accessories, truck caps.
ABB Air Preheater; Raymond Products Division (GMPPA).	Enterprise, KS	01/24/97	NAFTA–01460	Air preheater.
C and A Wall Covering; Imperial wallcoverings (UPIU).	Plattsburgh, NY	01/23/97	NAFTA–01461	Wallcoverings and wallpaper borders.
Kunz Custom Upholstery (Wkrs)	Montpelier, ID	01/17/97	NAFTA–01462	helmet interiors.
Maidenform; Jacksonville Florida Distribution Center (UNITE).	Jacksonville, FL	01/27/97	NAFTA–01463	Intimate apparel.
Norandal USA (Wkrs)	Scottsboro, AL	01/21/97	NAFTA–01464	Aluminum—coiled sheet and welded tube.
Oxford Industries; Oxford Shift Group (Wkrs).	Atlanta, GA	01/29/97	NAFTA–01465	Mens dress shirts.
A and A Consultants; ADA Garment finishers (Wkrs).	El Paso, TX	01/29/97	NAFTA–01466	Jeans, shorts, skirts, overalls.

[FR Doc. 97–3608 Filed 2–12–97; 8:45 am]

BILLING CODE 4810–30–M

[NAFTA–01248]

TRW Automotive Products Remanufacturing, A/K/A TRW Automotive Holding Company, A/K/A TRW, Incorporated, McAllen, Texas; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on November 8, 1996, applicable to workers of TRW Automotive Products Remanufacturing located in McAllen, Texas. The notice was published in the Federal Register on November 27, 1996 (61 FR 60310).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of remanufactured rack and pinion steering units. The company reports that some of the workers separated from employment had their wages reported under two separate unemployment insurance (UI) tax accounts, TRW Automotive Holding Company and TRW, Incorporated. Accordingly, the Department is amending the certification to reflect this matter.

The amended notice applicable to NAFTA—01248 is hereby issued as follows:

All workers of TRW Automotive Products Remanufacturing, also known as TRW Automotive Holding Company, also known as TRW, Incorporated, McAllen, Texas, who became totally or partially separated from employment on or after September 24, 1995 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of February 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–3611 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTENT OF LABOR

Employment and Training Administration

[TA–W–32,801 and NAFTA–01253

Weyerhaeuser Company, Oregon Timberlands & Regeneration Division, Klamath Falls, Oregon; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at Weyerhaeuser Co., Oregon Timberlands & Regeneration Div., Klamath Falls, Oregon. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA=W-32,801 and NAFTA-01253; Weyerhaeuser Company, Oregon Timberlands & Regeneration Division, Klamath Falls, OR (January 24, 1997)

Signed at Washington, DC this 28th day of January, 1997.

Russell T. Kile,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–3603 Filed 2–12–97; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee; Meeting

AGENCY: National Communications System (NCS).

ACTION: Notice of meeting.

SUMMARY: The Industry Executive Subcommittee of the President's National Security Telecommunications Advisory Committee will meet on Tuesday, March 4, 1997, from 9 a.m. to 12:30 p.m. The meeting will be held at Booz, Allen & Hamilton, Inc., 8283 Greensboro Drive, McLean, VA. The agenda is as follows:

—Call to Order/Welcoming Remarks
—Issues Group Report
—Overview of the Defense Science Board Task Force Report on Information Warfar—Defense (IW–D)
—NCC Vision Task Force Report
—Information Assurance Task Force Report
—National Information Infrastructure Task Force Report
—Network Security Group Report
—National Security and Emergency Preparedness Group Report
—Legislative and Regulatory Group Report
—Adjournment

Attendance at this meeting is limited, due to the capacity of the meeting facility. Anyone wishing to attend this meeting must confirm their attendance with Ms. Janet Jefferson, Plans, Customer Service and Information Assurance Division, (703) 607–6209.

FOR FURTHER INFORMATION CONTACT: Ms. Jefferson or write the Manager, National Communication System, 701 South Court House Rd., Arlington, VA 22204–2198.

Frank McClelland

Acting Chief, Technology and Standards.

[FR Doc. 97–3561 Filed 2–12–97; 8:45 am]

BILLING CODE 5000–03–M

NATIONAL SCIENCE FOUNDATION

Alan T. Waterman Award Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Date and Time: Monday, March 3, 1997; 8:00 a.m.–3:00 p.m.

Place: Room 370, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Mrs. Susan E. Fannoney, Executive Secretary, Room 1220, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703/306–1096.

Purpose of Meeting: To provide advice and recommendations in the selection of the Alan T. Waterman Award recipient.

Agenda: To review and evaluate nominations as part of the selection process for awards.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are exempt under 5 U.S.C. 552b(c)(6) of the Government in the Sunshine Act.

Dated: February 10, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management Acting Committee Management Officer.

[FR Doc. 97–3648 Filed 2–12–97; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Chemical and Transport Systems (#1190)≧ Νοτιψε οφ Μεετινγσ

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science

Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (#1190).

Date and Time: March 4, 1997; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 530, Arlington, VA 22230, (703) 306–1371.

Type of Meeting: Closed.

Contact Person: Dr. Raul Miranda, Program Director, Chemical Reaction Processes, Division of Chemical and Transport Systems (CTS), Room 525, (703) 306–1371.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY97 Research Equipment Grant Panel proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 10, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–3649 Filed 2–12–97; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Geosciences (1756).

Date and Time: Monday, March 3–Wednesday March 5, 1997; 8:30 a.m.–5:00 p.m.

Place: Room 730, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Michael R. Reeve, Section Head, Division of Ocean Sciences, National Science Foundation, 4201 Wilson Blvd., Room 725, Arlington, VA 22230. Telephone: 703/306–1582.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate OCE's FY 1997 Faculty Early Career (CAREER) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in The Sunshine Act.

Dated: February 10, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–3651 Filed 2–12–97; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics (1208).

Date and Time: March 6–8, 1997, from 8:30 am to 6:00 pm.

Place: Room 330, NSF 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. J. W. Lightbody, Program Director for Nuclear Physics, Room 1015, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Telephone: (703) 306–1806.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Experimental Nuclear Physics proposals as part of the selection process for awards.

Reason for closing: The project plans being reviewed include information of a proprietary or confidential nature, including technical information, information on personnel and proprietary data for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 10, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–3650 Filed 2–12–97; 8:45 am]

BILLING CODE 7555–01–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Statements of Claimed Railroad Service and Earnings, OMB 3220–0025.

To qualify for unemployment or sickness benefits payable under Section 2 of the Railroad Unemployment Insurance Act (RUIA), a railroad employee must have certain qualifying earnings in the applicable base year. In addition, to qualify for *extended* or *accelerated* benefits under Section 2 of the RUIA, a railroad employee who has exhausted his or her rights to normal benefits must have at least 10 years of railroad service (under certain conditions, military service may be credited as months of railroad service). Accelerated benefits are unemployment or sickness benefits that are payable to a railroad employee before the regular July 1 beginning date of a benefit year if an employee has 10 or more years of service and is *not* qualified for benefits in the current benefit year.

During the RUIA claims review process, the RRB may determine that unemployment or sickness benefits cannot be awarded because RRB records show insufficient qualifying service and/or compensation. When this occurs, the RRB allows the claimant the opportunity to provide additional information if they believe that the RRB service and compensation records are incorrect.

Depending on the circumstances, the RRP provides the following form(s) to obtain information needed to determine if a claimant has sufficient service or compensation to qualify for unemployment or sickness benefits.

Form No.	Annual re-sponses	Time (min.)	Burden (hours)
UI–9	800	10	133
UI–23	600	5	50
UI–44	150	5	13
ID–4F	25	5	2
ID–4U	150	5	13
ID–4X	100	5	8
ID–4Y	25	5	2
ID–20–1	50	5	4
ID–20–2	100	5	8
ID–20–4	10	5	1
Total ...	2,010	.....	234

Minor non-burden impacting editorial changes which include the addition of language required by the Paperwork Reduction Act of 1995 are being proposed to all of the above forms. Completion of the forms is required to obtain a benefit. One response is required of each respondent.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 97–3560 Filed 2–12–97; 8:45 am]

BILLING CODE 7905–01–M

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Employer's Deemed Service Month Questionnaire; OMB 3220–0156. Under Section 3(i) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) may deem additional months of service in cases where an employee does not actually work in every month of the year. The RRB utilizes Form GL–99, Employers Deemed Services Month Questionnaire, to obtain service and compensation information from railroad employers needed to determine if an employee can be credited with additional deemed months of railroad service. Completion is mandatory. One response is required for each RRB inquiry.

No changes are proposes to Form GL–99. The completion time for the GL–99 is estimated at 2 minutes per response. The RRB estimates that approximately 4,000 responses are received annually.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 97–3629 Filed 2–12–97; 8:45 am]

BILLING CODE 7905–01–M

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Application for Spouse Annuity Under the Railroad Retirement Act.

(2) *Form(s) submitted:* AA–3

(3) *OMB Number:* 3220–0042

(4) *Expiration date of current OMB clearance:* May 31, 1997

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households

(7) *Estimated annual number of respondents:* 10,800

(8) *Total annual responses:* 10,800

(9) *Total annual reporting hours:* 5,982

(10) *Collection description:* The Railroad Retirement Act (RRA) provides for the payment of annuities to spouses of railroad retirement annuitants who meet the requirements under the RRA. The application obtains information supporting the claim for benefits based on being a spouse of an annuitant.

The information is used in determining entitlement to and amount of the annuity applied for.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 97–3615 Filed 2–12–97; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel No. IC–22500; International Series Release No. 1050/812–7531].

The Emerging Germany Fund Inc.; Notice of Application

February 7, 1997.

AGENCY: Securities and Exchange Commission (the ''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: The Emerging Germany Fund Inc. (the ''Fund'') and each other registered investment company for which RCM Capital Management, L.L.C. (''RCM''), Dresdner Bank AG (''Dresdner Bank'') or any of Dresdner Bank's other subsidiaries or affiliates may in the future serve as investment adviser or manager (the ''Prospective Funds'').

RELEVANT ACT SECTIONS: Order requested under section 10(f) for an exemption from that section.

SUMMARY OF APPLICATION: Applicants seek an order to permit them to purchase securities in underwritten pubic offerings in the Federal Republic of Germany (''Germany'') in which Dresdner Bank or one of its affiliates acts as a principal underwriter.

FILING DATES: The application was filed on June 1, 1990, and amended on January 25, 1991 and November 13, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 4, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service.

Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, Four Embarcadero Center, Suite 3000, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT: Joseph B. McDonald, Jr., Senior Counsel, at (202) 942–0533, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representation

1. The Fund, organized as a Maryland Corporation, is a non-diversified, closed-end management investment company registered under the Act. The investment objective of the Fund is to seek long-term capital appreciation through investment in equity and equity-linked securities of German companies. Under normal market conditions, the Fund will invest at least 65% of its total assets in such securities. The Fund also may invest up to 35% of its total assets in equity and equity-linked securities of companies other than German companies.

2. The Fund's investment adviser and manager is RCM, a limited liability company organized under the laws of the state of Delaware. Dresdner Bank, a corporation organized under the laws of Germany, owns 100% of the outstanding voting equity securities of RCM. Dresdner Bank is a member of all eight of the German stock exchanges and frequently acts as lead manager or co-manager for underwritten public offerings of both debt and equity securities.

3. The Fund and the Prospective Funds wish to participate in underwritten public offerings of securities in Germany in which Dresdner Bank or an affiliate acts as a principal underwriter. RCM is an ''affiliated person'' of Dresdner Bank, and the investment adviser or manager of each Prospective Fund will be an ''affiliated person'' of Dresdner Bank, in each case as the term ''affiliated person'' is defined in section 2(a)(3) of the Act.

Applicants' Legal Analysis

1. Section 10(f) of the Act provides, in part, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is an investment adviser of such registered company, or is a person of which any such investment adviser is an affiliated person. Because applicants' investment advisers and managers are affiliated with Dresdner Bank, applicants are prohibited from purchasing securities from an underwriting syndicate in which Dresdner Bank or any of its affiliates participates as a principal underwriter.

2. Notwithstanding the section 10(f) prohibition, the section provides that the SEC may exempt conditionally or unconditionally any transaction or classes of transactions from any of the provisions of section 10(f) if and to the extent that the exemption is consistent with the protection of investors. Applicants believe that the granting of the requested exemption is consistent with the protection of investors.

3. Rule 10f–3 under the Act provides that purchases of securities by a registered investment company otherwise prohibited by section 10(f) are exempt from such section if certain specified conditions are met. Subparagraph (a)(1) of rule 10f–3 requires that the securities purchased be part of an issue registered under the Securities Act of 1933 (the ''Securities Act''). Applicants intend to invest in equity and equity-linked securities of German companies that are not required to be registered under the Securities Act. Accordingly, applicants cannot meet the above condition. Applicants, however, represent that they will satisfy all other conditions of rule 10f–3 with regard to purchases from public offerings in Germany. In addition, applicants submit that all securities purchased in Germany under circumstances subject to section 10(f) will be purchased in public offerings conducted in accordance with the laws of Germany and the rules and regulations of the German stock exchanges, and all subject German issuers will have available to prospective purchasers financial statements, audited in accordance with the standards of Germany, for the two years prior to purchase.

4. Public offerings in Germany take the form of public subscription, in which the underwriters invite the public or their customers to make offers to subscribe to the new securities, or of outright sale, where the underwriters acquire and resell the securities allotted to and subscribed to by them.[1] With respect to subsequent issuances of equity or equity-linked securities of German stock corporations, existing shareholders generally have statutory preemptive rights to these securities. Subscription rights that are not exercised by the existing shareholders are sold on the open market.

5. The public offering price of a security is fixed at the time of initial issuance and is published in the offering prospectus. However, applicants represent that, theoretically, securities may be offered to and purchased by affiliates of issuers and underwriters as part of a public offering on terms more favorable than those available to unaffiliated offerees and subscribers in the offering. Applicants contend that this is unlikely to happen in practice because it makes the new stock less attractive to potential investors. Applicants represent that the German Stock Exchange Admission Regulation (promulgated under the German Exchange Act) and the Securities Sales Prospectuses Act require such a variance between the offering terms to affiliates and non-affiliates to be disclosed in the offering prospectus. Consequently, applicants will not purchase securities in any offering in which the offering prospectus discloses that any portion of the securities being sold in the offering may be sold to any other investor at a price more favorable than the price available to applicants.

6. Applicants state that the number of subscribers participating in a public offering in Germany will vary significantly depending on the means of distribution selected in a particular offering and the nature of the existing trading market for an issuer's securities. Accordingly, securities that are admitted for trading on the official market of a German stock exchange may have a greater number of subscribers than securities admitted for trading on the regulated unlisted market due to the comparatively greater size of the official market. Applicants assert that regardless of whether the securities are admitted for trading on the official market or the regulated unlisted market, and regardless of whether the securities are purchased by public subscription or outright sale, a public offering is not

[1] Beginning in 1994, many public offerings, particularly those with a foreign tranche, have been conducted in accordance with the Anglo-American system of ''book-building,'' in which the shares are allocated among underwriters according to an order book established on the basis of a share price range announced at the commencement of the offering. The book building process may be used for both firm commitment underwritings and underwritings conducted on a ''best efforts'' basis.

limited to a few participants. Applicants will not participate in offerings in which the securities are not widely disseminated. Applicants state that securities purchased pursuant to the relief granted will be admitted for trading on the official market or the regulated unlisted market on one or more of the German stock exchanges, or have been approved for admission to the official or the regulated unlisted market but are not yet admitted or listed.

7. For a security to be officially listed on the German stock exchanges, the German Exchange Act requires publication of a prospectus which contains all information considered material to an evaluation of the securities to be listed. Applicants applying for official listing on the exchanges must provide complete details of the issue, including the latest audited financial statements, and have available audited financial statements for the last three consecutive years. Applications for admission to trading in the regulated unlisted market must contain essentially similar information as that required for official listing, but in a condensed form.

8. Applicants represent that German public offerings may be conducted under three principal forms: the purchase contract, the commission agreement, and the agency contract. With respect to initial public offerings conducted on a ''purchase contract'' basis, the underwriting banks commit to purchase all of the securities at a fixed price and hold them either individually or as joint owners. With respect to subsequent issuances of securities of existing corporations, such offerings conducted on a purchase contract basis also will commit the underwriting bank to purchase all the securities issued, including those subject to preemptive rights, at a fixed price. Accordingly, the underwriting banks fully assume the risk of not finding sufficient third party purchasers for the securities subscribed under a purchase agreement. Under a ''commission agreement,'' the banks are commission agents and sell the issue to investors in their name, but for the account of the issuer, whereas with an ''agency contract,'' the banks sell the securities as representatives of the issuer in the name and for the account of the issuer. In either a ''commission agreement'' or an ''agency contract,'' the marketing risk generally remains with the issuer. Because clause (3) of paragraph (a) of rule 10f–3 requires the underwriters to purchase all the securities being offered (except those purchased by others pursuant to a rights offering), applicants undertake not to purchase securities in any offering in which the offering prospectus discloses that the securities are subject to a ''commission agreement'' or ''agency contract'' rather than a ''purchase contract.''

9. The only condition of rule 10f–3 that applicants cannot satisfy is that the securities will be registered under the Securities Act. Applicants assert that this registration requirement is largely a by-product of the requirement that the investment company purchase the securities at the public offering price (which ordinarily would not exist absent registration). In addition, registration tends to indicate that the securities were issued more or less in the ''ordinary course'' of business. Applicants note that the registration requirement appears in the same subparagraph as the requirements that a registered investment company purchase the securities in a firm commitment underwriting, on the first day of the public offering, and for no more than the public offering price, indicating that registration is closely related to these requirements. Applicants believe that purchasing the securities at issue pursuant to a public offering conducted in accordance with German law, together with a requirement that audited financial statements for the previous two years be available to all prospective purchasers, provides an adequate substitute for the registration requirement. The availability of such financial statements, as well as other disclosure required of issuers under German law, provide RCM with sufficient information to make informed investment decisions. Taken together with the requirement that securities subject to section 10(f) be purchased in public offerings conducted in accordance with German law, investors can be assured that the securities are issued in the ''ordinary course'' of business. In light of these requirements, as well as the protection afforded by the other provisions of rule 10f–3, applicants believe that such purchases will not raise any of the concerns addressed by section 10(f) and that applicants' shareholders will be adequately protected.

10. In light of the foregoing, applicants request that an order be entered, pursuant to section 10(f), exempting applicants on the conditions set forth below to permit purchases of securities in public offerings in Germany in which Dresdner Bank or any of its affiliates participates as a principal underwriter.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. With the exception of paragraph (a)(1) of rule 10f–3, all other conditions set forth in rule 10f–3 will be satisfied.

2. The foreign securities subject to section 10(f) will be purchased in a public offering conducted in accordance with the laws of Germany and the rules and regulations of the German stock exchanges.

3. All subject German issuers will have available to prospective purchasers financial statements, audited in accordance with the standards of Germany, for the two years prior to the purchase.

4. The securities purchased are admitted for trading on the official market or the regulated unlisted market on one or more of the German stock exchanges, or have been approved for admission to the official or the regulated unlisted market but are not yet admitted or listed.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–3541 Filed 2–12–97; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22501; No. 811–8562]

Insurance Investments Products Trust

February 7, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: Insurance Investments Products Trust (the ''Applicant'' or the ''Trust'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 8(f) of the 1940 Act and Rule 8f–1 thereunder.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on January 2, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicant with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on March 4, 1997, and should be

accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interests, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 680 East Swedesford Road, Wayne, Pennsylvania 19087–1658.

FOR FURTHER INFORMATION CONTACT: Zandra Y. Bailes, Staff Attorney, or Patrice M. Pitts, Branch Chief, both at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. The Applicant is an open-end diversified management company organized as a Massachusetts business trust.

2. On June 10, 1994, the Applicant filed with the Commission a notification of registration as an investment company on Form N–8A, pursuant to Section 8(a) of the Act, and a registration statement on Form N–1A (File Nos. 33–80158 and 811–8562), pursuant to the Securities Act of 1933 (the ''1933 Act'') and Section 8(b) of the 1940 Act.

3. Pursuant to Rule 24f–2 under the 1940 Act, the Applicant registered an indefinite amount of securities under the 1933 Act. Those securities consisted of six classes of capital stock: International Growth Fund, Growth Fund, Aggressive Growth Fund, Income Equity Fund, Income Equity Fund, Intermediate Fixed Income Fund and Money Market Fund. Shares of the Applicant were not assigned a par value. The Form N–1A registration statement was declared effective on November 15, 1994; distribution activities commenced on December 30, 1994.

4. As of December 31, 1995, less than $2,100,000 represented variable contract owner investment in the Trust. At the meeting of the Trust's Board of Trustees on December 4–5, 1995, management of the Trust reported to the Board its belief that a significant increase of investment in the Trust was unlikely and recommended that the Board consider closing the Trust. The Trust's December 31, 1995 Annual Report to investors disclosed that the Trust had not met management's growth expectations and that consideration was being given to closing the Trust. During the ensuing months variable annuity contract owners voluntarily redeemed or transferred their interests in the subaccounts of the separate account investing in the Trust. Redemption of the Trust's shares continued until May 30–31, 1996, when SEI Financial Management Corporation (''SEI Financial'')—an investment adviser of the Trust—redeemed its seed money shares. All redemptions of the Trust's shares occurred at net asset value.

5. The securities of the Trust were disposed by the investment advisers and sub-advisers in accordance with their normal practices for effecting portfolio transactions. Approximate brokerage commissions paid for disposing of the securities was $4,351.

6. During the last 18 months, the Applicant has not, for any reason, transferred any of its assets to a separate trust.

7. At the time of filing this application, the Applicant retained no assets.

8. The Applicant does not have any debts or other liabilities which remain outstanding.

9. The Applicant is not a party to any litigation or administrative proceeding.

10. At the time of filing this application, the Applicant has no security holders.

11. The Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

12. All legal, accounting, and other expenses incurred in connection with the liquidation have been or will be borne by SEI Corporation (the parent company of SEI Financial) or a subsidiary thereof.

13. On December 31, 1996, the Applicant filed Articles of Dissolution with the Secretary of the Commonwealth of Massachusetts, Corporation Division, which were effective upon receipt by the Division. Accordingly, the Applicant no longer has legal existence under Massachusetts law.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 97–3622 Filed 2–12–97; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22498; 812–10430]

Liberty All-Star Equity Fund, et al.; Notice of Application

February 6, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Liberty All-Star Equity Fund (''All-Star'') and Liberty Asset Management Company (''LAMCO'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from section 15(a) of the Act.

SUMMARY OF APPLICANT: Applicants request an order amending an existing order, which amended a prior order, that let the Fund's investment adviser hire and fire sub-advisers and enter new sub-advisory agreements resulting from an ''assignment,'' as defined in the Act, and delay shareholder approval until the next annual shareholder meeting. Among other things, the existing order is subject to a requirement that the new subadvisory agreement will affect no more than 25% of the Fund's assets. The amended order would eliminate this condition.

FILING DATES: The application was filed on November 14, 1996, and amended on February 3, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 3, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549. Applicants: Federal Reserve Plaza, Boston, MA 02210.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenless, Senior Counsel, at (202) 942–0581 or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application

may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. All-Star is a closed-end diversified management investment company. LAMCO, a registered investment adviser, is an indirect wholly-owned subsidiary of Liberty Financial Companies, Inc. (''LFC''). LFC is an indirect majority-owned subsidiary of Liberty Mutual Insurance Company.

2. All-Star employs a multi-manager methodology of portfolio management. It allocates its investment portfolio on an approximately equal basis among several independent investment management firms (''Sub-Advisors''), currently five in number, selected and recommended from time to time by LAMCO based on specific criteria, inducing a sufficient diversity and breadth of investment styles. None of the Sub-Advisors has nay affiliation with All-Star or LAMCO other than as Sub-Advisor.

3. Applicants received an order that permits All-Star and LAMCO to enter into new subadvisory agreements incident to a change in Sub-Advisors or the addition of a Sub-Advisor recommended by LAMCO and to delay shareholder approval of such agreements until All-Star's next annual meeting of shareholders (the ''Prior Order'').[1] Subsequently, applicants received an order amending the Prior Order to extend the relief granted therein so that, in the event of a sale of assets, merger, or transfer of voting securities of a Sub-Advisor or other transaction constituting an ''assignment'' (as defined in section 2(a)(4) of the Act), of All-Star's subadvisory agreement with such Sub-Advisor, All-Star, LAMCO, and such Sub-Advisor or its successor could enter into a new subadvisory agreement and delay shareholder approval of such agreement until All-Star's next annual meeting of shareholders (''the Existing Order'').[2] Applicants reaffirm all of the representations made in the original applications, as amended, for the Prior Order and the Existing Order.

4. Among other things, the Existing Order is conditioned upon the requirement that the new subadvisory agreement involved will, when entered into, affect no more than approximately 25% of All-Star's assets. Applicants seek to amend the Existing Order to eliminate such restriction.

[1] Investment Company Act Release Nos. 19436 (April 27, 1993) (notice) and 19491 (May 25, 1993) (order).

[2] Investment Company Act Release Nos. 20347 (June 8, 1994) (notice) and 20355 (July 6, 1994) (order).

Applicants' Legal Analysis

1. Section 15(a) of the Act makes it unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract, whether with such registered company or with an investment adviser of such registered company, which has been approved by the majority vote of the outstanding voting securities of such registered company.

2. Applicants state that All-Star's multi-manager methodology of portfolio management is based on the premise that most investment management firms consistently employ a distinctive investment style that causes them to emphasize stocks with particular characteristics, and that, because of changing investor preferences, any given investment style will move into and out of market favor and will result in better investment performance under certain market conditions, but less successful performance under other conditions. All-star's multi-manager methodology, by allocating its portfolio among several Sub-Advisors employing different investment styles, seeks to achieve more consistent and less volatile performance over the long term then if an single investment style was employed throughout the entire period. The Sub-Advisors recommended by LAMCO represent a blending of different investment styles, which, in its opinion, is appropriate to All-Star's investment objective, and which is sufficiently broad so that, insofar as All-Star's investment objective permits, at least one of such styles can reasonably be expected to be in market favor in all reasonable foreseeable market conditions.

3. LAMCO believes that the investment styles of certain investment management firms may result in more volatile performance than those of other firms. Accordingly, it believes that the objectives of reducing volatility and providing a blending of different investment styles appropriate for All-Star's investment objectives may be better served by allocating more than an equal portion of All-Star's assets to a Sub-Advisor whose investment style is expected to result in less volatile performance than those of the other Sub-Advisors, and allocating the remaining assets among the other Sub-Advisors (not necessarily on an equal basis). The relative allocations among the Sub-Advisors, once established, would be maintained through rebalancings at approximately the same levels until the next change or addition of a Sub-Advisor.

4. Applicants submit that, except for the fact that any order granting the requested relief will not contain the Existing Order's requirement that the new subadvisory agreement involved will, when entered into, affect no more than approximately 25% of All-Star's assets, each of the factors that provided the basis for the granting of the Prior Order and the Existing Order would continue to apply.

5. Section 6(c) of the Act authorizes the SEC to exempt persons or transactions from the provisions of the Act to the extent that such exemptions are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the requested amendment to the exemption from section 15(a) of the Act granted by the Existing Order would be consistent with the standards set forth in section 6(c) of the Act and would be in the best interests of All-Star and its shareholders.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. The new sub-advisory agreement will be submitted for ratification and approval to the vote of All-Star's shareholders no later than at the regularly scheduled annual meeting of shareholders of All-Star next following the effective date of the new sub-advisory agreement, and its continuance after such meeting will be conditioned on approval by a majority vote (as defined in section 2(a) (42) of the Act) of such shareholders.

2. All-Star will continue to hold annual meetings of its shareholders, whether or not required to do so by the rules of the New York Stock Exchange, Inc. or otherwise.

3. The trustees of All-Star, in addition to approving the new sub-advisory agreement in accordance with the requirements of section 15(c) of the Act, will specifically determine that entering into a sub-advisory agreement in advance of the next regular annual meeting of the shareholders of All-Star, and without prior shareholder approval is in furtherance of All-Star's multi-manager methodology, and is in the best interests of All-Star and its shareholders.

4. The new Sub-Advisor will have no affiliation with All-Star or LAMCO other than as Sub-Advisor, and will have no duties or responsibilities with respect to All-Star beyond the investment management of the portion of All-Star's portfolio assets allocated to

it by LAMCO from time to time and related record keeping and reporting.

5. The new sub-advisory agreement will provide for a sub-advisory fee no higher than that provided in All-Star's existing sub-advisory agreements and, except for the provisions relating to shareholder approval referred to in condition 1 above, will be on substantially the same other terms and conditions as such existing agreements. In the event that the new sub-advisory agreement provides for sub-advisory fees at rates less than those provided in the existing agreements, the difference will be passed on to All-Star and its shareholders through a corresponding voluntary reduction in the fund management fees payable by All-Star to LAMCO.

6. The appointment of the new or successor Sub-Advisor will be announced by press release promptly following the trustees' action referred to in condition 3 above, and a notice of the new sub-advisory agreement, together with a description of the new or successor sub-Advisor, will be included in All-Star's next report to shareholders.

7. In the case of a new subadvisory agreement with an existing Sub-Advisor or its successor following an ''assignment,'' as defined in section 2(a)(4) of the Act and the rules thereunder, off All-Star's sub-advisory agreement with that Sub-Advisor, LAMCO or the Sub-Advisor (or its successor) will pay the incremental cost of including the proposal to approve or disapprove the new sub-advisory agreement in the proxy material for the next annual meeting of All-Star Growth's shareholders.

8. LAMCO will provide overall supervisory responsibility for the general management and investment of All-Star's assets, subject to All-Star's investment objectives and policies and any directions of All-Star's trustees. In particular, LAMCO will: (a) Provide overall investment programs and strategies for All-Star; (b) recommend to All-Star's trustees investment management firms for appointment or replacement as All-Star Sub-Advisors; (c) allocate and reallocate All-Star's portfolio assets among the Sub-Advisors; and (d) monitor and evaluate the investment performance of the Sub-Advisors, including their compliance with All Star's investment objectives, policies, and restrictions.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–3543 Filed 2–12–97; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22499; 812–10436]

Liberty All-Star Growth Fund, Inc., et al.; Notice of Application

February 6, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Liberty All-Star Growth Fund, Inc. (''All-Star Growth'') and Liberty Asset Management Company (''LAMCO'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from section 15(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order amending an existing order that lets All-Star Growth and LAMCO change or add sub-advisers, or continue the services of a sub-adviser following an assignment of its sub-advisory agreement, and delay shareholder approval until the next annual shareholder meeting. Among other things, the existing order is subject to a requirement that the new subadvisory agreement will affect no more than approximately one-third of All-Star Growth's assets. The amended order would eliminate this condition.

FILING DATES: The application was filed on November 14, 1996, and amended on February 3, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 3, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549. Applicants: Federal Reserve Plaza, Boston, MA 02210.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 942–0581 or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. All-Star Growth is a closed-end diversified management investment company. LAMCO, a registered investment adviser, is an indirect wholly-owned subsidiary of Liberty Financial Companies, Inc. (''LFC''). LFC is an indirect majority-owned subsidiary of Liberty Mutual Insurance Company.

2. All-Star Growth employs a multi-manager methodology of portfolio management. It allocates its investment portfolio on an approximately equal basis among several independent investment management firms (''Sub-Advisors''), currently three in number, selected and recommended from time to time by LAMCO based on specific criteria, including a sufficient diversity and breadth of investment styles. None of the Sub-Advisors has any affiliation with All-Star Growth or LAMCO other than as Sub-Advisor.

3. Applicants received an order that permits All-Star Growth and LAMCO to change or add Sub-Advisors, or continue the services of a Sub-Advisor following an assignment of its subadvisory agreement, and delay shareholder approval of the new sub-advisory agreements with such Sub-Advisors until All-Star Growth's next annual meeting of shareholders (the ''Existing Order').[1] Applications reaffirm all of the representations made in the original application, as amended for the Existing Order, except as described below.

4. Among other things, the Existing Order is conditioned upon the requirement that the new subadvisory agreement involved will, when entered into, affect no more than approximately one-third of All-Star Growth's assets.[2] Applicants seek to amend the Existing Order to eliminate such restriction.

[1] Investment Company Act Release Nos. 20772 (Dec. 15, 1994) (notice) and 20824 (Jan. 10, 1995) (order).

[2] Under the Existing Order, LAMCO managed 20% of All-Star Growth's assets, subject to an increase to include all of All-Star Growth's assets as provided in an Asset Acquisition and Fund Management Transition Agreement, dated February 9, 1994, among LAMCO, Growth Stock Outlook, Inc. (''GSO''), and GSO's principal stockholder. Pursuant to that Agreement and as approved by All-Star Growth's shareholders at its 1995 annual meeting: (a) LAMCO assumed management of the remaining approximately 80% of All-Star Growth's assets; (b) the fund's name was changed to ''Liberty All-Star Growth Fund, Inc.;'' and (c) its investment objective was changed to long-term capital appreciation. Accordingly, since November 6, 1995, the exemptive relief granted by the Existing Order has been applicable to 100% of All Star Growth's assets.

Applicant's Legal Analysis

1. Section 15(a) of the Act makes it unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract, whether with such registered company or with an investment adviser of such registered company, which has been approved by the majority vote of the outstanding voting securities of such registered company.

2. Applicants state that All-Star Growth's multi-manager methodology of portfolio management is based on the premise that most investment management firms consistently employ a distinctive investment style that causes them to emphasize stocks with particular characteristics, and that, because of changing investor preferences, any given investment style will move into and out of market favor and will result in better investment performance under certain market conditions, but less successful performance under other conditions. All-Star Growth's multi-manager methodology, by allocating its portfolio among several Sub-Advisors employing different investment styles, seeks to achieve more consistent and less volatile performance over the long term than if a single investment style was employed throughout the entire period. The Sub-Advisors recommended by LAMCO represent a blending of different investment styles, which, in its opinion, is appropriate to All-Star Growth's investment objective, and which is sufficiently broad so that, insofar as All-Star Growth's investment objective permits, at least one of such styles can reasonably be expected to be in market favor in all reasonably foreseeable market conditions.

3. LAMCO believes that the investment styles of certain investment management firms may result in more volatile performance than those of other firms. Accordingly, it believes that the objectives of reducing volatility and providing a blending of different investment styles appropriate for All-Star Growth's investment objectives may be better served by allocating more than an equal portion of All-Star Growth's assets to a Sub-Advisor whose investment style is expected to result in less volatile performance than those of the other Sub-Advisors, and allocating the remaining assets among the other Sub-Advisors (not necessarily on an equal basis). The relative allocations among the Sub-Advisors, once established, would be maintained through rebalancings at approximately the same levels until the next change or addition of a Sub-Advisor.

4. Applicants submit that, except for the fact that any order granting the requested relief will not contain the Existing Order's requirement that the new subadvisory agreement involved will, when entered into, affect no more than approximately one-third of All-Star Growth's assets, each of the factors that provided the basis for the granting of the Existing Order would continue to apply.

5. Section 6(c) of the Act authorizes the SEC to exempt persons or transactions from the provisions of the Act to the extent that such exemptions are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the requested amendment to the exemption from section 15(a) of the Act granted by the Existing Order would be consistent with the standards set forth in section 6(c) of the Act and would be in the best interests of All-Star Growth and its shareholders.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each new sub-advisory agreement will be submitted for ratification and approval to the vote of All-Star Growth's shareholders no later than at the regularly scheduled annual meeting of shareholders of All-Star Growth next following the effective date of the new sub-advisory agreement, and its continuance after such meeting is conditioned on approval by a majority vote (as defined in section 2(a)(42) of the Act) of such shareholders.

2. All-Star Growth will continue to hold annual meetings of its shareholders, whether or not required to do so by the rules of the New York Stock Exchange, Inc. or otherwise.

3. The directors of All-Star Growth, in addition to approving the new sub-advisory agreement in accordance with the requirements of section 15(c) of the Act, will specifically determine that entering into the new sub-advisory agreement in advance of the next regular annual meeting of the shareholders of All-Star Growth, and without prior shareholder approval is in furtherance of All-Star Growth's multi-manager methodology, and is in the best interests of All-Star Growth and its shareholders.

4. The new Sub-Advisor will have no affiliation with All-Star Growth or LAMCO other than as Sub-Advisor, and will have no duties or responsibilities with respect to All-Star Growth beyond the investment management of the portion of All-Star Growth's assets allocated to it by LAMCO from time to time and related record keeping and reporting.

5. The new sub-advisory agreement will provide for a sub-advisory fee no higher than that provided in All-Star Growth's existing sub-advisory agreements and, except for the provisions relating to shareholder approval referred to in condition 1 above, will be on substantially the same other terms and conditions as such existing agreements. In the event that the new sub-advisory agreement provides for sub-advisory fees at rates less than those provided in the existing sub-advisory agreements, the difference will be passed on to All-Star Growth and its shareholders through a corresponding voluntary reduction in the fund management fees payable by All-Star Growth to LAMCO.

6. The appointment of the new or successor Sub-Advisor will be announced by press release promptly following the directors' action referred to in condition 3 above, and a notice of the new sub-advisory agreement, together with a description of the new or successor Sub-Advisor, will be included in All-Star Growth's next report to shareholders.

7. LAMCO will provide overall supervisory responsibility for the general management and investment of All-Star Growth's assets, subject to All-Star Growth's investment objectives and policies and any directions of All-Star Growth's directors. In particular, LAMCO will: (a) provide overall investment programs and strategies for All-Star Growth's assets; (b) recommend to All-Star Growth's directors investment management firms for appointment or replacement as Sub-Advisors for All-Star Growth's assets; (c) allocate and reallocate All-Star Growth's assets among the Sub-Advisors; and (d) monitor and evaluate the investment performance of the Sub-Advisors, including their compliance with All-Star Growth's investment objectives, policies, and restrictions.

8. In the case of a new sub-advisory agreement with an existing Sub-Advisor or its successor following an ''assignment,'' as defined in section 2(a)(4) of the Act and the rules thereunder, of All-Star Growth's sub-advisory agreement with that Sub-Advisor, LAMCO or the Sub-Advisor (or its successor) will pay the incremental cost of including the proposal to approve or disapprove ratification of the new sub-advisory agreement in the proxy material for the next annual meeting of All-Star Growth's shareholders.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–3542 Filed 2–12–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38255; International Series Release No. 1049; File No. SR–CBOE–96–60]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Incorporated Relating to Listing and Trading of Options on the Salomon Brothers BMI World Property Index

February 6, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 7, 1996, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change [3] as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to list and trade cash-settled, European-style stock index options on the Salomon Brothers BMI World Property Index (''World Property Index'' or ''Index''), a broad-based, float capitalization-weighted index comprised of 339 stocks [4] from eighteen countries.[5]

The text of the proposed rule change is available at the Office of the secretary, CBOE and at the Commission.

[1] 15 U.S.C. 78s (b)(1)

[2] 17 CFR 240.19b–4.

[3] On December 18, 1996, CBOE submitted an amendment to the rule change. *See* letter from Eileen Smith, Director, Product Development, Research Department, CBOE to Marianne H. Khawly, Staff Attorney, Division of Market Regulation, SEC, dated December 18, 1996.

[4] A list of the securities comprising the World Property Index was submitted by the Exchange as Exhibit B, and is available at the Office of the Secretary, CBOE and at the Commission.

[5] The following countries are represented in the Index: Australia; Belgium; Canada; Denmark; France; Germany; Hong Kong; Ireland; Japan; Malaysia; the Netherlands; Norway; Singapore; Spain; Sweden; Switzerland; the United Kingdom; and the United States.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and represented it did not receive any comments on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to permit the CBOE to list and trade cash-settled, European-style stock index options on the World Property Index. As discussed further in the *Maintenance* paragraph, the World Property Index is a broad-based float capitalization-weighted index (price times available shares outstanding). The Index is currently composed of 339 high-capitalization stocks of real estate and property companies from 18 countries. The World Property Index is a subset of the Salomon Brothers World Equity Index is a subset of the Salomon Brothers World Equity Index which is comprised of listed equities from 22 countries.

Index Design. The World Property Index has been designed to measure the performance of certain high capitalization real estate and property stocks from various countries. The World Property Index is a broad-based float capitalization-weighted index calculated as described below. The Exchange represents that the Index is broad-based for three reasons. First, although the stocks are all involved in real estate and property, the types of real estate vary widely. The Index can be divided into the following four industry groups: non-U.S. diversified property activities group; non-U.S. property development group; non-U.S. property investment/management group; and the U.S. group.[6] Second, the 339 component stocks are from 18 countries, therefore, CBOE asserts that the performance of the various companies is not as closely linked as it would generally be in a narrow-based index. On July 31, 1996, the 339 stocks ranged in capitalization from $75.5 million to $12.4 billion. The largest stock accounted for 6.43% of the total weighting of the Index, while the smallest accounted for 0.04%. The top five stocks in the Index accounted for 22.72 percent of the weight of the Index.[7] The median capitalization of the firms in the Index was $247.3 million. And third, the CBOE believes that since each of the components from foreign countries are traded in local currencies and then translated into U.S. dollars, there is an added component of currency conversion which must be factored into the movement of the individual securities.

Calculation. The Index level is calculated once per day by Salomon Brothers and will be disseminated by CBOE prior to the opening the next business day over the Options Price Reporting Authority (''OPRA'') or the Consolidated Tape Association. Closing prices in each company's domestic market are used in the final daily Index calculations.[8] WM/Reuters Closing Spot Rates (''WM/Reuters Rates''), taken at 4:00 p.m. London time, are midmarket rates (as opposed to bid-side quotations) based on Reuters data that are used to calculate the U.S. dollar value of the Index. WM/Reuters Rates are calculated by the WM Company (''WM'') and appear on Reuters beginning on page WMRA.[9]

Shares are adjusted for corporate actions on their ex-dates. These actions include splits, scrip and bonus issues, and preemptive rights. For actions resulting in no net change to the capitalization of the issue, such as stock splits and stock dividends, the Index divisor, described below, remains unchanged. The Index divisor is updated at each quarter-end for changes in share capital because of share

[6] The U.S. group consists of the following 12 industry subgroups: apartments; healthcare facilities; hotels; manufactured homes; office/industrial buildings; diversified properties; net/lease properties; REOCs; self-storage facilities; factory outlets; regional malls; and shopping centers.

[7] The top five stocks were: Sun Hung Kai Properties Ltd. from Hong Kong (6.43 percent); Cheung Kong Holdings Ltd. from Hong Kong (5.29 percent); Mitsubishi Estate Co. from Japan (5.04 percent); Mitsui Fudosan Co. from Japan (3.44 percent); and New World Development Company Ltd. from Hong Kong (2.52 percent).

[8] Salomon Brothers currently does not calculate intra-day values of the Index during the U.S. trading day.

[9] WM is a UK-based company that specializes in performance measurement. WM is a neutral force, not related to any trading firm or broker-dealer. WM/Reuters Rates represent an effort led by WM to standardize the closing spot rates used in the global investment community for fund valuation, index compilation, and performance measurement. WM/Reuters Rates are considered to be an industry standard and are used by various firms in index calculation.

issuance or buybacks. This update may include bond and warrant conversions or open market share buybacks. There is no replacement of de-listed issues, per se, prior to annual reconstitution. However, large, newly formed companies, spin-offs from Index constituents and privatizations falling within the top half of their country's capitalization range enter the Index at the next month-end, following their official listing.

If a company's shares are no longer available because of a cash tender offer or bankruptcy, that company will be deleted from the Index without replacement. The deletion will occur on the last trading day of the month in which the event takes place. If the issue stops pricing, it will be maintained in the Index at the final offer price until its removal. if a company is acquired by another constituent of the Index through a share swap, the acquired company will be deleted from the Index on the swap ex-date. The share weight of the acquiring company will increase in accordance with the terms of the offer to reflect the combined capitalization of both companies.

If trading in a stock is halted, the last bid or suspension price is carried forward. In cases of a prolonged suspension, a dealer market or gray market price may be used. A gray market is a market available through dealers or banks. In such cases of prolonged suspension, Salomon would attempt to obtain a price on the gray market by getting a quote from several dealers other than Salomon.

Maintenance. The World Property Index was originally created using all stocks from each country with a market value of at least $100 million. Stocks are retained in the Index if they maintain a market value of at least $75 million, and new stocks are added if they meet a $100 million minimum market value at the annual re-balance date on the last trading day in May. The individual components are classified into sectors based on the breakdown of sales provided by the company in financial reports. The primary selection criteria for adding or deleting a country is the size of its equity market, the freedom of capital movement and the ability to repatriate dividends. Additionally, reliable price, share, dividend and corporate action data must also be readily available.

As mentioned above, the World Property Index is float-capitalization weighted, *i.e.* the component issues in the Index are included at a level that accounts for the price of a share times the available shares outstanding. To determine the appropriate weight, all issues are assigned an availability factor. The factor is a percentage measurement of its float (available capital). There are four categories of shares which are excluded in determining availability: corporate cross-holdings; private control block holdings (encompassing 10% or more of total capital); government holdings; and legally-restricted shares.

Availability factors are updated each year at the same time as the annual reconstitution of the Index on July 1 of each year. All listed equities in the constituent markets are evaluated by their available capital based on their price and total shares outstanding as of the last business day in May. Changes to the constituent list, effective July 1 each year, are preannounced two weeks prior to the effective date and are subject to change due to any major corporate activity occurring during the period between May 31 and the effective date of July 1.

The level of the Index reflects the total market value of the component stocks relative to a particular base period. The World Property Index base date is December 31, 1992, when the Index value was set to 100.00. The Index had a closing value of 188.92 on December 31, 1996. The daily calculation of the World Property Index is computed by dividing the total market value of the companies in the Index by the Index divisor. The divisor keeps the Index comparable over time and is adjusted periodically to maintain the Index. The Index divisor is adjusted for all extraordinary dividends, noncash corporate distributions, and monies distributed via share buybacks. The Index levels are price levels and, therefore, do not account for ordinary dividends.

Index Option Trading. In addition to regular Index options, the CBOE may provide for the listing of long-term index option series (''LEAPS®'') and reduced-value LEAPS® on the Index. For reduced-value LEAPS®, the underlying value would be computed at one-tenth of the Index level. The current and closing Index value of any such reduced-value LEAP® will, after such initial computation, be rounded to the nearest one-hundredth.

Strike prices will be set to bracket the Index in 2½ point increments for strikes below 200 and 5 point increments above 200. The minimum tick size for series trading below $3 will be 1/16th and for series trading above $3 the minimum tick will be 1/8th. The trading hours for options on the Index will be from 8:30 a.m. to 3:15 p.m. Chicago time.

Exhibit C presents proposed contract specifications for World Property Index options.

Exercise and Settlement. The proposed options on the Index will expire on the Saturday following the third Friday of the expiration month. Trading in the expiring contract month will normally cease at 3:15 p.m. (Chicago time) on the business day preceding the last day of trading in the component securities of the Index (ordinarily the Thursday before expiration Saturday, unless there is an intervening holiday). The exercise settlement value of the Index at option expiration will be based on the closing prices of the component securities on the business day prior to expiration. If a stock fails to open for trading, the last available price on the stock will be used in the calculation of the Index, as is done for currently listed indices. When the last trading day is moved because of Exchange holidays (such as when the CBOE is closed on the Friday before expiration), the last trading day for expiring options will be Wednesday and the exercise settlement value of Index options at expiration will be determined at the opening of regular Thursday trading.

Surveillance. As of July 31, 1996, the stocks from the United States represented 24.04% of the weight of the Index. In addition, the CBOE currently has information sharing agreements with 11 of the 18 foreign countries representing 63.77% of the weight of the Index.[10] In addition, the Exchange represents that it will use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in Index options and Index LEAPS® on the world Property Index.

Position Limits. The CBOE proposes to establish position limits for options on the World Property Index at 50,000 contracts on either side of the market, and no more than 30,000 of such contracts may be in the series in the nearest expiration month. These limits are roughly equivalent, in dollar terms, to the limits applicable to options on other indices.

Exchange Rules Applicable. As modified herein, the Rules in Chapter XXIV will be applicable to World Property Index options.

CBOE has also been informed that OPRA recently has added an additional outgoing high speed line from the OPRA processor and thus, also has the capacity to support the new series.[11]

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[10] CBOE represents that it has surveillance sharing agreements with the following countries: Belgium; Canada; France; Germany; Hong Kong; Ireland; Japan; Malaysia; the Netherlands; Spain; and the United Kingdom.

[11] *See* memo from Joe Corrigan, Executive Director, OPRA to Eileen Smith, Director of Product

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it will permit trading in options based on the World Property Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in options based on an additional index.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number in the caption above and should be submitted by March 6, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–3539 Filed 2–12–97; 8:45 am]

BILLING CODE 8010–01–M

Research, CBOE, dated June 26, 1996 (conforming that the traffic generated is within OPRA's capacity).

[12] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–38254; File No. SR–PSE–97–03]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Pacific Stock Exchange Incorporated Relating to a Waiver of All Customer, Firm and Market Maker Transaction Fees for Transactions in FLEX Equity Options Until April 29, 1997

February 6, 1997.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 thereunder,[2] notice is hereby given that on January 27, 1997, the Pacific Stock Exchange Incorporated (''PSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the PSE. The Exchange filed with the Commission Amendment No. 1 to the proposed rule change on January 28, 1997.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is proposing to extend for a three month period its waiver of all customer, firm and Market Maker transaction fees for transactions in FLEX Equity Options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PSE included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. The PSE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 14, 1996, the Commission approved an Exchange proposal for the listing and trading of Flexible Exchange (FLEX) Options on equity securities, pursuant to Rule 8.100.[4] The Exchange commenced trading of FLEX Equity Options on October 24, 1996. On October 31, 1996, the Commission approved an Exchange proposal to waive for three months all customer, firm and market maker transaction fees for transactions in FLEX Equity Options.[5] The Exchange is now proposing to extend this waiver for three additional months, ending on Wednesday, April 29, 1997.[6] The purpose of the waiver is to encourage customers, firms and market makers to execute transactions in FLEX Equity Options on the Exchange and respond to competitive actions in the industry.

2. Statutory Basis

The proposal is consistent with Section 6(b)(5)[7] of the Act because it is designed to facilitate transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange filed Amendment No. 1 to accurately reflect the expiration date of the three month extension of the waiver. *See* Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE, to John V. Ayanian, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, dated January 27, 1997 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666 (February 21, 1996).

[5] *See* Securities Exchange Act Release No. 37901 (October 31, 1996), 61 FR 57508 (November 6, 1996).

[6] *See* Amendment No. 1, *supra* note 3.

[7] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change, as amended, were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, as amended, establishes or changes a due, fee, or other charge imposed by the Exchange and therefore, has become effective pursuant to section 19(b)(3)(A)[8] of the Act and subparagraph (e) of Rule 19b–4[9] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solictation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–97–03 and should be submitted by March 6, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 19b–4(e).

[10] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–3538 Filed 2–12–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38257; File No. SR–PSE–97–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Late SIPC Reports

February 7, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 1997, the Pacific Stock Exchange, Inc. (''PSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the PSE.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend paragraph (b)(2) of PSE Rule 2.12, ''Financial Reports,'' and paragraph (k)(2) of PSE Rule 10.13, ''Minor Rule Plan,'' to replace references to ''Form SIPC–6'' and ''Form SIPC–7'' with general references to ''Securities Investor Protection Corporation (''SIPC'') forms and assessments'' or ''such forms and assessments as are required pursuant to the Securities Investor Protection Act of 1970 (''SIPA'').''

The text of the proposed rule change is available at the office of the Secretary, PSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(a) Purpose

Currently, PSE Rule 2.12(b)(2) requires members to file with the Exchange a Form SIPC–6 or Form SIPC–7 pursuant to SIPA.[4] PSE Rule 2.12(b)(2) provides a late filing charge for members who fail to file such documents in a timely manner.[5] In addition, PSE Rule 2.12(b)(2) provides that a member who files its Form SIPC–6 or Form SIPC–7 within five business days of receipt of SIPC's final late notice is subject to a fine pursuant to PSE Rule 10.13,[6] and that a member who fails to file its Form SIPC–6 or Form SIPC–7 within five business days after its receipt of SIPC's final late notice is subject to formal disciplinary action pursuant to PSE Rule 10.4, ''Hearing.''[7]

The Exchange purposes to amend PSE Rules 2.12(b)(2) and 10.13 (j) and (k) to replace references to ''Form SIPC–6'' and ''Form SIPC–7'' with general references to ''SIPC form and assessment'' and ''such forms and assessments as are required'' pursuant to SIPA. The Exchange is taking this action because SIPC recently has replaced Forms SIPC–6 and SIPC–7 with Form SIPC–4. The Exchange believes that the use of a general reference to SIPC filings, rather than references to specific SIPC forms, will obviate the need for additional rule

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On February 4, 1997, the PSE submitted a technical amendment that (1) designates the provisos in PSE Rule 2.12(b) as (A) and (B); and (2) replaces references in PSE Rules 10.13(j)(2) and 10.13(k)(iii)(2) to PSE Rule 2.12(a) with references to PSE Rule 2.12(b). *See* Letter form Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE, to Yvonne Fraticelli, OMS, Division of Market Regulation, Commission, dated February 3, 1997 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release Nos, 33347 (December 15, 1993), 58 FR 67888 (December 22, 1993) (order approving File No. SR–PSE–93–21) (adopting charges for late filing of SIPC–6 and SIPC–7 reports); and 32510 (June 24, 1993), 58 FR 335491 (July 1, 1993) (order approving File No. SR–PSE–92–15) (approving amendment to the Exchange's Minor Rule Plan relating to late SIPC reports).

[5] Under PSE Rule 2.12(b)(2), the charge for late filings are as follows: (1) $200.00 for reports that are 1 to 30 days late; (2) $400.00 for reports that are 31 to 60 days late; and (3) $800.00 for reports that are 61 to 90 days late.

[6] The fines under PSE Rule 10.13 are: (1) $1,200.00 for a first violation: (2) $1,800.00 for a second violation; and (3) $2,400.00 for a third violation.

[7] In addition, PSE Rule 10.13(j)(2) provides that the failure to file a Form SIPC–6 or Form SIPC–7 within five days after the receipt of SIPC's final notice will result in a formal disciplinary action.

changes in the event that SIPC again changes its form. The Exchange also is adding a reference to SIPC ''assessments'' in order to clarify the subject rules, consistent with the PSE's long-standing interpretation that a SIPC filing with the Exchange is complete only if it includes an assessment.

(b) Basis

The PSE believes that the proposal is consistent with Section 6(b) of the Act, in general, and with Sections 6(b)(5) and 6(b)(6), in particular, in that it is designed to promote just and equitable principles of trade and to ensure that members will be appropriately disciplined for violations of Exchange rules.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change and Amendment No. 1 to the rule change constitute a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing PSE rule, the proposal and Amendment No. 1 to the proposal have become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–PSE–97–04 and should be submitted by March 6, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–3623 Filed 2–12–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38253; File No. SR–PSE–97–01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange Incorporated Relating to the Limitation of Liability in Connection With Indexes on Which Options Are Listed or Traded on the Exchange

February 6, 1997.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 13, 1997, the Pacific Stock Exchange Incorporated (''PSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to modify PSE Rule 7.13, which relates to the limitation of liability of the PSE in connection with indexes on which options are listed or traded on the Exchange. The text of the proposed rule change is available at the Exchange and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

PSE Rule 7.13 currently provides that the Exchange shall have no liability for damages, claims, losses or expenses caused by any errors, omissions or delays in calculating or disseminating the index value. The Exchange now proposes to expand this provision in several respects. First, the Exchange proposes to adopt new subsection (a), which will provide that neither the Exchange, any affiliate, nor any Index Licensor or Administrator shall have any liability for any loss, damages, claim, or expense arising from or occasioned by any inaccuracy, error, or delay in, or omission of or from, (i) any index and basket information or (ii) the collection, calculation, compilation, maintenance, reporting or dissemination of any index or any index and basket information, resulting either from any negligent act or omission by the Exchange, any affiliate or any Index Licensor or Administrator or from any act, condition or cause beyond the reasonable control of the Exchange, any affiliate or any Index Licensor or Administrator, including, but not limited to, flood, extraordinary weather conditions; earthquake or other act of God, fire, war, insurrection, riot, labor dispute, accident, action of government, communications or power failure, or equipment or software malfunction.

The Exchange also proposes to adopt new subsection (b), which states that neither the Exchange, any affiliate, nor any Index Licensor or Administrator makes any express or implied warranty as to results that any person or party may obtain from using (i) any basket, (ii) the index that is the basis for determining a basket's component

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

stocks, or (iii) any index and basket information, for trading or any other purpose. It further states that the Exchange, its affiliates, Index Licensors, and Administrators make no express or implied warranties and disclaim all warranties of merchantability or fitness for a particular purpose or use, with respect to any such basket, index, or information.

The Exchange also proposes to adopt new Commentary .01 to PSE Rule 7.13. This Commentary would provide that, for the purposes of PSE Rule 7.13, ''Index Licensor or (and) Administrator'' includes any person who: (a) licenses to the Exchange the right to use (i) an index that is the basis for determining the inclusion and relative representation of a basket's component stocks or (ii) any trademark or service mark associated with such an index; (b) collects, calculates, compiles, reports and/or maintains such an index, or index and basket information relating to such an index; (c) provides facilities for the dissemination of index and basket information; and/or (d) is responsible for any of the activities described above.

In addition, the Exchange proposes to adopt new Commentary .02 to PSE Rule 7.13, which would provide that, for the purposes of PSE Rule 7.13, ''index and basket information'' includes (a) information relating to the inclusion and relative representation of stocks in an index from which a basket is derived, such an index's values, a basket's component stocks, the weighted summation of the bids or offers of a basket's component stocks, and basket and component stock last sale and quotation information and (b) other information relating to a basket or its index.

The purpose of the rule change proposal is to clarify existing PSE Rule 7.13 and to expand it with regard to potential Exchange liability and with regard to Index Licensors and Administrators. The Exchange notes that the text of proposed PSE Rule 7.13 and Commentaries .01 and .02 is substantially similar to New York Stock Exchange Rule 813.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[2] of the Act in general and furthers the objectives of Section 6(b)(5)[3] in particular in that it is designed to facilitate transactions in securities and to promote just and equitable principles of trade.

[2] 15 U.S.C. 78f(b).

[3] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 10549. Also, copies of such filing will be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–97–01 and should be submitted by March 6, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

[4] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–3624 Filed 2–12–97; 8:45 am]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D–11]

WTO Dispute Settlement Proceeding Regarding Patent Protection in India for Pharmaceuticals and Agricultural Chemicals

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that the United States has requested the establishment of a dispute settlement panel under the Agreement Establishing the World Trade Organization (WTO), to examine India's failure to make patent protection available for inventions as specified in Article 27 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), or provide systems that conform to obligations of the TRIPS Agreement regarding the acceptance of applications and the grant of exclusive marketing rights. More specifically, the United States has requested the establishment of a panel to determine whether India's legal regime is inconsistent with the obligations of the TRIPS Agreement, including but not necessarily limited to Articles 27, 65 and 70. USTR also invites written comments from the public concerning the issues raised in the dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 3, 1997, to be assured of timely consideration by USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to Ileana Falticeni, Office of Monitoring and Enforcement, Room 501, Attn: India Mailbox Dispute, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Thomas Robertson, Associate General Counsel, Office of the General Counsel, Office of the U.S Trade Representative, 600 17th Street, N.W. Washington, DC 20508 (202) 395–6800.

SUPPLEMENTARY INFORMATION: On November 10, 1996, the United States requested establishment of a WTO dispute settlement panel to examine whether India's legal regime is inconsistent with the obligations of the TRIPS Agreement. The WTO dispute Settlement Body (DSB) considered the U.S. request at its meeting on November 20, 1996, at which time a panel was established. Very recently, three panelists were chosen to hear the dispute: Professor Thomas Cottier of the University of Berne in Switzerland, Mr. Yanyong Phuangrach of the Ministry of Commerce in Thailand, and Mr. Doug Chester of the Ministry of Foreign Affairs and Trade in Australia. The first meeting of panelists is scheduled to take place on February 19, 1997. Under normal circumstances, the panel would be expected to issue a report detailing its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the United States and Legal Basis of Complaint

The TRIPS Agreement requires all WTO Members to grant patents for the subject matter specified in Article 27 of the Agreement. Article 70.8 of the TRIPS Agreement provides that where a Member takes advantage of the transitional provisions under the Agreement and does not make product patent protection available for pharmaceutical and agricultural chemical inventions as of the date of entry into force of the WTO Agreement (i.e., January 1, 1995), that Member must implement measures to permit Members' nationals to file patent applications drawn to such inventions on or after that January 1, 1995. When the Member fully implements the product patent provisions of TRIPS Agreement Article 27, these applications must be examined according to the criteria for patentability set forth in the Agreement, based on the earliest effective filing date claimed for the application. Patents granted on these applications must enjoy the term and rights mandated by the TRIPS Agreement.

The TRIPS Agreement further requires Members subject to the obligations of Article 70.8 to provide exclusive marketing rights to those persons who have filed an application under the interim filing procedures, provided that the product covered by the invention has been granted marketing approval in the Member providing this transitional protection and another Member, and a patent has been granted on the invention in another Member.

The legal regime in India currently does not make patent protection available for inventions as specified in Article 27 of the TRIPS Agreement, or provide systems that conform to obligations of the TRIPS Agreement regarding the acceptance of applications and the grant of exclusive marketing rights. As a result, India's legal regime appears to be inconsistent with the obligations of the TRIPS Agreement, including but not necessarily limited to Articles 27, 65 and 70.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

A person requesting that information or advice contained in a comment submitted by that person, other than business confidential information, be treated as confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155)—

(1) Must so designate that information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA, USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508. The public file will include a listing of any comments received by USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding; the submissions, or non-confidential summaries of submissions, to the panel received from the other participants in the dispute, as well as the report of the dispute settlement panel and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D–11, ''U.S.-India: Mailbox''), may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

Assistant U.S. Trade Representative for Monitoring and Enforcement.

[FR Doc. 97–3546 Filed 2–12–97; 8:45 am]

BILLING CODE 3190–01–M

[Docket No. WTO/D–15]

WTO Dispute Settlement Proceeding: Practices of the Government of Turkey Regarding the Imposition of a Discriminatory Tax on Box Office Revenues

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that the United States has requested the establishment of a dispute settlement panel under the Agreement Establishing the World Trade Organization (WTO), to examine whether Turkey's imposition of a tax on box office revenues from the showing of foreign films, but not on the revenues from the showing of domestic films, is inconsistent with Turkey's obligations under Article III of the General Agreement on Tariffs and Trade 1994 (GATT 1994). USTR also invites written comments from the public concerning the issues raised in the dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 3, 1997, to be assured of timely consideration by USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to Ileana Falticeni, Office of Monitoring and Enforcement, Room 501, Attn: Turkey Film Tax Dispute, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Thomas Robertson, Associate General Counsel, Office of the General Counsel, Office of the U.S. Trade Representative, 600 17th Street, N.W. Washington, DC 20508, (202) 395–6800.

SUPPLEMENTARY INFORMATION: Turkey's Law on Municipal Revenues (Law No. 2464) imposes a 25% municipality tax on box office revenues generated from the showing of foreign films, but not the

revenue generated from the showing of domestic films. Current information is that the revenues are allocated to municipal coffers for general use. On January 9, 1997, the United States formally requested establishment of a WTO dispute settlement panel to examine whether Turkey's imposition of the Municipality Tax is inconsistent with the obligations of the GATT 1994. The WTO Dispute Settlement Body (DSB) considered the U.S. request at its meeting on January 22, 1997. Under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes, the DSB must establish a panel at the next DSB meeting whether this request is on the agenda, unless the DSB determines by consensus otherwise. Under normal circumstances, the panel would be expected to issue a report detailing its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the United States and Legal Basis of Complaint

Article III of the GATT 1994 provides, among other things, that the products of the territory of one WTO member imported into the territory of another WTO member shall not be subject to internal taxes or other changes of any kind in excess of those applied, directly or indirectly, to like domestic products. WTO members are also prohibited from applying internal taxes or internal charges to imported or domestic products so as to afford protection to domestic production. Turkey's imposition of a tax on box office revenues that is applied only to revenues generated by foreign films, and not to revenues generated by domestic films, would appear to be inconsistent with the obligations set forth in Article III of the GATT 1994.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

A person requesting that information or advice contained in a comment submitted by that person, other than business confidential information, be treated as confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155)—

(1) Must so designate that information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA, USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington DC 20508. The public file will include a listing of any comments received by USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding; the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the dispute settlement panel and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D–15, ''U.S.-Turkey: Film Tax''), may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

Assistant U.S. Trade Representative for Monitoring and Enforcement.

[FR Doc. 97–3545 Filed 2–12–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements, Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 28, 1996 [FR 61, page 55684].

DATES: Comments must be submitted on or before March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Jackie Hathaway, (202) 366–0187 and refer to the OMB Control Number.

SUPPLEMENTARY INFORMATION:

Federal Transit Administration (FTA)

1. *Title:* 49 U.S.C. 5312(a).

Type of Request: Extension to a currently approved information collection.

OMB Control Number: 2132–0546.

Form(s): N/A.

Affected Public: Business or other for-profit, Federal Government State, local government, transit and planning.

Abstract: 49 U.S.C. 5312(a) authorizes the Secretary of Transportation to make grants or contracts for research, development, and demonstration projects that will reduce urban transportation needs, improve mass transportation service, or help transportation service meet the total urban transportation needs at a minimum cost. In carrying out the provisions of this section, the Secretary is also authorized to request and receive appropriate information from any source.

The information collected is submitted as part of the application for grants and cooperative agreements and is used to determine eligibility of applicants. Collection of this information also provides documentation that the applicants and recipients are meeting program objectives and are complying with FTA Circular 6100.1B and other Federal requirements.

Estimated Annual Burden: The estimated annual burden is 20,840 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FTA Desk Officer.

Comments are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on February 6, 1997.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–3573 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–62–P

Reports, Forms and Recordkeeping Requirements, Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 8, 1996 [FR 61, page 52837].

DATES: Comments must be submitted on or before March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Verchinski, (202) 366–1626 or Mr. Sheldon Edner (202) 366–4066 and refer to the OMB Control Number.

SUPPLEMENTARY INFORMATION:

Federal Transit Administration (FTA)

1. *Title:* Metropolitan Planning and Statewide Planning.

Type of Request: Extension to a currently approved information collection.

OMB Control Number: 2132–0529.

Form(s): N/A.

Affected Public: State Departments of Transportation (DOTs) and Metropolitan Planning Organizations (MPOs).

Abstract: The FTA and FHWA jointly carry out the Federal mandate to improve urban and rural transportation. 49 U.S.C. 5303 and 23 U.S.C. 134 and 135 require metropolitan planning organizations (MPOs) and States to develop transportation plans and programs. The information collection activities involved in developing the Unified Planning Work Program (UPWP), the Metropolitan Transportation Plan, the Statewide Transportation Plan, the Transportation Improvement Program (TIP), and the Statewide Transportation Improvement Program (STIP) are necessary to identify and evaluate the transportation issues and needs in each urbanized area and throughout every State. These products of the transportation planning process are essential elements in the reasonable planning and programming of federally-funded transportation investments.

In addition to serving as a management tool for MPOs and State DOTs, the UPWP is used by both FTA and FHWA to monitor the transportation planning activities of those agencies. It is also needed to develop policy on using funds, monitor State and local compliance with national technical emphasis areas, respond to congressional inquiries, prepare congressional testimony, and ensure efficiency in the use and expenditure of Federal funds by determining that planning proposals are both reasonable and cost-effective. 49 U.S.C. 5304 and 23 U.S.C. 134(h) require the development of TIPs for urbanized areas; STIPS are mandated by 23 U.S.C. 135(f). After approval by the Governor and MPO, metropolitan TIPs in attainment areas are to be incorporated directly into the STIP. For nonattainment areas, FTA/FHWA must make a conformity finding on the TIPs before including them into the STIP. The complete STIP is then jointly reviewed and approved or disapproved by FTA and FHWA. These conformity findings and approval actions constitute the determination that States are complying with the requirements of 23 U.S.C. 135 and 49 U.S.C. Section 5303 as a condition of eligibility for Federal-aid funding. Without these documents, approvals and findings, capital and/or operating assistance, cannot be provided.

Estimated Annual Burden: The estimated annual burden is 241,850 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention OST Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on February 6, 1997.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–3574 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–62–P

Reports, Forms and Recordkeeping Requirements, Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collection and their expected burden. On October 22, 1996, [61 Vol. Page 54832] a notice was published in the Federal Register to request comments on the paperwork burden associated with the following collections of information.

DATES: Comments must be submitted on or before March 17, 1997.

ADDRESSES: Written comments on the FAA information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Repair Station Certification, FAR 145.

OMB Control Number: 2120–0010.

Type of Request: Extension of a currently approved collection.

Affected Public: Applicants' for repair station certificates.

Form(s): FAA Form 8318–3.

Abstract: The information collected on FAA Form 8310–3, Application for Repair Station Certificate and/or Rating, is required from applicants who wish repair station certification. 14 CFR Part 145 prescribes the requirements for issuing repair station certificates and associated ratings to maintenance and alteration facilities. The collection of this information is necessary for the

issuance, renewal, or amendment of applicants' repair station certificates, and ensuring that repair stations meet minimum acceptable standards.

Burden: The estimated total annual burden is 304,647 hours.

Title: Employment Standards—Parts 107 and 108 of the Federal Aviation Regulation.

OMB Control Number: 2120–0554.

Type of Request: Extension of a currently approved collection.

Form(s): N/A.

Affected Public: 450 airport operators and an estimated 815 air carrier checkpoints.

Abstract: Section 105 of Public Law 101–604, the Aviation Security Improvement Act of 1990, directed the FAA to prescribe standards for the hiring, continued employment and contracting of air carrier and appropriate airport security personnel. These standards were developed and have become part of 14 CFR parts 107 and 108. Airport operators will maintain at their principal business office at least one copy of evidence of compliance with training requirements for all employees having unescorted access privileges to security areas. Air carrier ground security coordinators are required to maintain at least one copy of the annual evaluation of their security related functions. This is a recordkeeping burden.

Annual Estimated Burden Hours: The estimated annual recordkeeping burden is 16,283 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on February 6, 1997.

Phillip A. Leach,

Information Clearance Officer United States Department of Transportation.

[FR Doc. 97–3575 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–62–P

Aviation Proceedings; Agreements Filed During the Week Ending February 7, 1997

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–97–2121.

Date filed: February 7, 1997.

Parties: Members of the International Air Transport Association.

Subject: Telex PTC3 Mail Vote 853, Philippines-to-Japan Restricted Economy Fares. Intended effective date: February 20, 1997.

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 97–3668 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending February 7, 1997

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–95–258.

Date filed: February 7, 1997.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 7, 1997.

Description: Application of Lynden Air Cargo, LLC., pursuant to 49 U.S.C. Section 41109, and Subpart Q of the Regulations, requests the removal of a restriction to the certificate of public convenience and necessity that limits the size of aircraft operated by Lynden Air Cargo.

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 97–3667 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–62–P

Office of the Secretary

Applications of Jet America Charters, L.C. D/B/A Jet America; for Issuance of New Certificate Authority

AGENCY: Office of the Secretary, (DOT).

ACTION: Notice of Order to Show Cause (Order 97–2–4); Dockets OST–96–1661 and OST–96–1662.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue orders finding Jet America Charters, L.C. d/b/a Jet America fit, willing, and able, and awarding it certificates of public convenience and necessity to engage in interstate and foreign scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than February 28, 1997.

ADDRESSES: Objections and answers to objections should be filed in Dockets OST–96–1661 and OST–96–1662 and addressed to the Department of Transportation Dockets (SVC–120.30, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mr. James Lawyer, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–1064.

Dated: February 10, 1997.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 97–3658 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

[CGD13–96–002]

Final Environmental Impact Statement (FEIS) Southwest Harbor Cleanup and Redevelopment Project

AGENCY: Coast Guard, DOT.

ACTION: Notice of adoption of lead agency FEIS.

SUMMARY: As Federal authority for the permitting of bridges across navigable waters of the United States, the Coast Guard has adopted those portions of the Seattle District of the Army Corps of Engineers FEIS pertaining to the construction of a railroad bridge and a roadway bridge across the Duwamish East Waterway in Seattle, Washington.

The Coast Guard intends to issue a record of decision (ROD) 30 days from the date of the this notice.

ADDRESSES: The documents referred to in this notice are available for inspection and copying at the office of Commander (oan) Thirteenth Coast Guard District, 915 Second Avenue, Room 3510, Seattle, Washington. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch; Telephone: (206) 220–7272.

SUPPLEMENTARY INFORMATION: The Coast Guard intends to issue a record of decision (ROD) 30 days from the date of this notice. The impacts of the proposed bridges were evaluated as part of the FEIS prepared by the Seattle District of the Army Corps of Engineers, as lead Federal agency, for the Port of Seattle's Southwest Harbor Cleanup and Redevelopment Project. The FEIS was approved in November 1994. The Coast Guard provided notification of its intention to adopt those portions of the lead agency's FEIS pertaining to the bridges in Public Notice 95–N–03 dated April 26, 1995. The public notice was issued in accordance with Coast Guard standard procedure for the processing of bridge permit applications.

This notice satisfies the recirculation requirements of the Council on Environmental Quality regulations found at 40 CFR 1506.3.

Dated: February 3, 1997.

J. David Spade,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 97–3628 Filed 2–23–97; 8:45 am]

BILLING CODE 4910–14–M

[CGD 97–009]

Merchant Marine Personnel Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Merchant Marine Personnel Advisory Committee (MERPAC) will meet to discuss various issues relating to and concerning merchant marine personnel, including safety, training, and qualifications. The meetings are open to the public.

DATES: A working group meeting will be held on Thursday, March 13, 1997, from 8 a.m. to 4 p.m. A public meeting will be held on Friday, March 14, 1997 from 8 a.m. to 3:30 p.m. Written material and requests to make oral presentations should reach the Coast Guard on or before February 28, 1997.

ADDRESSES: Both meetings will be held at the RTM Center for Advanced Maritime Officers Training (STAR Center), 2 West Dixie Highway, Dania, FL 33004. Written material and requests to make oral presentations should be sent to Commander Greg Jones, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Commander Greg Jones, Executive Director of MERPAC, or Mr. Mark Gould, Assistant to the Executive Director, telephone (202) 267–0229, fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of March 14, 1997 Meeting

(1) Subcommittee Reports

a. International Convention on the Standards of Training, Certification and Watchkeeping (STCW).

b. Prevention Through People (PTP).

c. Marine Simulation.

(2) Other issues to be discussed

a. MERPAC website on the Coast Guard home page.

b. Tankerman regulations—REC enforcement.

c. NMC outcomes assessment.

Procedural

Both meetings are open to the public. With advance notice, and at the discretion of the Chairman, members of the public may present oral statements at the March 14, 1997 meeting. Persons wishing to make oral statements on March 14, 1997 should notify the Executive Director no later than February 28, 1997. Written statements or materials may be submitted for presentation to the Committee at any time; however, to ensure timely distribution to each Committee member, 20 copies of the written materials should be submitted to the Executive Director at the address above no later than February 28, 1997.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request assistance at the meetings, contact the Executive Director as soon as possible.

Dated: February 10, 1997.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 97–3627 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Notice of Document Availability Draft Supplemental Environmental Impact Statement for Seattle-Tacoma International Airport, Seattle, Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of document availability.

SUMMARY: The Federal Aviation Administration (FAA) and the Port of Seattle (Port), acting as joint lead agencies, have released for public and agency review and comment, a Draft Supplemental Environmental Impact Statement (DSEIS) for the Master Plan Update at Seattle-Tacoma International (SEATAC) Airport. This DSEIS is a combined Federal National Environmental Policy Act (NEPA) and Washington State Environmental Policy Act (SEPA) document.

SUPPLEMENTARY INFORMATION: On February 1, 1996, the FAA approved a Final Environmental Impact Statement (FEIS) on proposed development projects at SEATAC airport as defined in the Master Plan Update. An FAA Record of Decision was never issued for the proposed development. During the intervening months, both the FAA and the Port have determined that the forecasts of aircraft activity and enplaned passengers used in the above referenced FEIS did not adequately account for the actual growth which has taken place at SEATAC Airport in the past year nor the potential for faster growth rates than expected in the FEIS.

New aviation activity forecasts have been prepared which were used in this DSEIS to determine: (1) changes in the timing of when certain development projects will be needed to meet the needs of the airport and (2) potential environmental impacts from proposed development. This document evaluates the anticipated environmental impacts of the proposed alternatives that include development of a new parallel runway, additional terminal, landside and cargo facilities. All of the development alternatives will result in floodplain encroachment, wetland filling, stream relocation, and property acquisition, as well as other impacts.

The Port of Seattle will host a Public Hearing concerning the proposed Master

Plan Update. The Public Hearing will be held from 4:00 PM to 8:00 PM on Tuesday, March 4, 1997, at the SEATAC airport auditorium. The purpose of the Hearing is to consider the social, economic, and environmental effects of the proposed Master Plan Development. The public will be afforded the opportunity to present oral testimony and/or written testimony pertinent to the intent of the hearing. Additional comments should be submitted no later than March 31, 1997, to Mr. Dennis Ossenkop, ANM–611, Federal Aviation Administration, Northwest Mountain Region, Airports Division, 1601 Lind Avenue, S.W., Renton, WA 98055–4056.

Any person desiring to review the Draft Supplemental Final Environmental Impact Statement may do so during normal business hours at the following locations:

Federal Aviation Administration, Airports District Office, Room 240, 1601 Lind Avenue, S.W., Renton, Washington
Port of Seattle, Aviation Planning, Terminal Building, 3rd Floor, Room 301, Sea-Tac Airport, Seattle, Washington
Port of Seattle, Second Floor Bid Counter, Pier 69, 2711 Alaskan Way, Seattle, Washington
Boulevard Park Library, 12015 Roseberg, South, Seattle, Washington
Burien Library, 14700–6th, S.W., Burien, Washington
Des Moines Library, 21620–11th, South, Des Moines, Washington
Federal Way Library, 34200–1st, South, Federal Way, Washington
Foster Library, 4205 South 142nd, Tukwila, Washington
Seattle Library, 1000–4th Avenue, Seattle, Washington
Tacoma Public Library, 1102 Tacoma Avenue, South, Tacoma, Washington
University of Washington, Suzallo Library, Government Publications, Seattle, Washington
Valley View Library, 17850 Military Road, South, SeaTac, Washington

CONTACT PERSON: If you desire additional information related to this project, please contact: Mr. Dennis Ossenkop, ANM–611, Federal Aviation Administration, Airports District Office, 1601 Lind Avenue, S.W., Renton, Washington, 98055–4056.

Issued in Renton, Washington, on February 6, 1997.

Lowell H. Johnson,

Manager, Airports Division, Federal Aviation Administration, Northwest Mountain Region, Renton, Washington.

[FR Doc. 97–3676 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Airport Certification Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss airport certification issues.

DATES: The meeting will be held on March 12, 1997, at 9:00 a.m. Arrange for oral presentations by March 3, 1997.

ADDRESSES: The meeting will be held at the Air Transport Association of America, 1301 Pennsylvania Avenue, NW, Suite 1100, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT:

Ms. Marisa Mullen, Federal Aviation Administration, Office of Rulemaking (ARM–205), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–7653; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on March 12, 1997, at the Air Transport Association of America, 1301 Pennsylvania Avenue, NW, Suite 1100, Washington, DC 20004. The agenda will include:

- Committee administration.
- Concept brief from Friction Measurement and Signing Working Group.
- General discussion of working group brief.
- A discussion of future meeting dates, locations, activities, and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by March 3, 1997, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on February 10, 1997.

Robert E. David,

Assistant Executive Director for Airport Certification Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–3669 Filed 2–12–97; 8:45 am]

BILLING CODE 4910–3–M

Surface Transportation Board

[STB Finance Docket No. 33311]

Kansas City Southern Industries, Inc., KCS Transportation Company, and The Kansas City Southern Railway Company; Control; Gateway Western Railway Company and Gateway Eastern Railway Company

AGENCY: Surface Transportation Board.

ACTION: Acceptance of application.

SUMMARY: The ICC Termination Act of 1996, Public Law 104–88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323–25. On January 14, 1997, Kansas City Southern Industries, Inc. (KCSI), KCS Transportation Company (KCSTC), The Kansas City Southern Railway Company (KCSR), Gateway Western Railway Company (GWWR), and Gateway Eastern Railway Company (GWER) filed an application for KCSI to acquire control of GWWR and GWER. We accept the application for consideration. We further find that this is a ''minor transaction'' under 49 CFR 1180.2(c). Finally, we establish an expedited procedural schedule.

DATES: Written comments, including comments from the Secretary of Transportation and the Attorney General of the United States, must be filed with the Board no later than March 17, 1997. Applicants' reply statement is due on April 1, 1997. The Board expects to issue a final decision by May 1, 1997, with an effective date of May 5, 1997.

ADDRESSES: Send pleadings referring to STB Finance Docket No. 33311 to: (1) Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, D.C. 20423;[1] (2) Docket Clerk, Office of Chief Counsel, Federal

[1] It is anticipated that the Board will move to its new offices in March 1997. The Board's address at the new offices will be: Surface Transportation Board, Mercury Building, 1925 K Street, N.W., Washington, DC 20423.

Railroad Administration, Room 5101, 400 Seventh Street, S.W. Washington, D.C. 20590; (3) Attorney General of the United States, Washington, D.C. 20530; (4) William C. Sippel, Two Prudential Plaza, 45th Floor, 180 North Stetson Avenue, Chicago, IL 60601; and (5) William A. Mullins, 1300 I Street, N.W., Suite 500 East, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Applicants seek approval under 49 U.S.C. 11323–25 for KCSI to acquire control of GWWR and GWER. On December 12, 1996, KCSI's wholly owned noncarrier subsidiary, KCSTC, acquired the stock of GWWR and GWER and placed the shares into an independent voting trust. Upon approval of this application, the voting trust will be dissolved, and the shares will be transferred to KCSTC. Applicants indicate that, after the transaction is effected, KCSI will control KCSR, GWWR, and GWER. GWWR and GWER will be marketed as part of the KCSR rail system, and their operations will be coordinated with those of KCSR. However, applicants indicate that GWWR and GWER will remain separate legal entities and will not be merged into KCSR.

Applicants allege that this is a ''minor transaction'' as defined in 49 CFR part 1180, the regulations that implemented former 49 U.S.C. 11343–45. The ICCTA revised those statutory provisions and reenacted them as 49 U.S.C. 11323–25. The transaction here specifically is subject to 49 U.S.C. 11324(d) because it does not involve the merger or control of two Class I railroads. Section 204(a) of the ICCTA provides that all ICC rules in effect on the date the enactment of the ICCTA ''shall continue in effect according to their terms until modified, terminated, superceded, set aside, or revoked in accordance with law by the Board * * * or operation of law.'' While the standards and procedures of former sections 11343–45 and current sections 11323–25 are substantially similar insofar as minor transactions are concerned, the procedures of current section 11325(d), which applies if the transaction is a minor transaction, differ slightly from those at 49 CFR 1180.4 and shall govern. Otherwise, the use of the regulations at 49 CFR part 1180 for this proceeding appears proper.

Under 49 U.S.C. 11324(d), in proceedings not involving the merger or control of at least two Class I railroads, the Board must approve a transaction unless it finds that: (1) The transaction will result is a ''substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States;'' and (2) ''the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.''

KCSR is a Class I railroad that operates more than 4,000 route miles in the Midwest and Southern States. GWWR is a Class II railroad which owns and operates 461 miles of rail line between Kansas City, KS, and East St. Louis, IL. GWWR also has haulage rights over the Southern Pacific Transportation Inc. line between Springfield and Chicago, IL. GWER, which is wholly owned by GWWR, is a Class III railroad that owns and operates 17 miles of rail line between East Alton and East St. Louis, IL. The transaction here will extend KCSR's rail system into Chicago and East St. Louis.

Applicants argue that the transaction will have no anticompetitive effects because it would be an end-to-end acquisition, not a parallel acquisition. According to applicants, the transaction will enhance competition and provide shippers with increased service and routing options.

Applicants assert that the transaction will further the public interest in meeting significant transportation needs. They contend that the combined KCSI system will provide shippers with better equipment utilization, improved car supply resulting from access to the larger car fleet of the combined system, new opportunities for single-line service, improved plant maintenance and other operating efficiencies. Applicants further assert that the transaction will strengthen KCSI's combined system and improve its financial and operating performance.

Applicants anticipate that no existing non-exempt KCSR, GWWR or GWER employees will be adversely affected by the proposed transaction. According to applicants, all of GWWR's non-management employees and maintenance-of-way employees are represented by national unions and are covered under existing collective bargaining agreements, which will remain in force. They further state that there are no plans to transfer work currently performed by GWWR or GWER employees to KCSR locations. GWWR and GWER management employees and GWER exempt personnel are not covered by collective bargaining agreements. Applicants assert that the ''applicable level of labor protection for the control transaction proposed herein is that set forth in *New York Dock Ry.-Control-Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979).''

Under 49 CFR part 1180, the Board must determine whether a proposed transaction is major, significant, or minor. We find that the transaction is minor under 49 CFR 1180.2(c), because it has no regional or national transportation significance. Because the application substantially complies with the applicable regulations governing minor transactions, we are accepting it for consideration.

Our finding that this transaction is minor under 49 CFR 1180.2(c) also satisfies the criteria for application of current 49 U.S.C. 11325(a)(3) and 11325(d).

By petition filed January 14, 1997, applicants request an expedited procedural schedule for processing the application. Due to the limited, end-to-end nature of the proposed transaction, it is not likely to involve complex issues. Thus, we will adopt the suggested expedited schedule, which is reflected in the **DATES** section above. But we reserve the right to modify this schedule if unforeseen issues arise.

The application and exhibits are available for inspection in the Public Docket Room at the Offices of the Surface Transportation Board in Washington, DC. In addition, they may be obtained upon request from applicants'' representatives named above.

Interested persons, including government entities, may participate in this proceeding by submitting written comments. Any person who timely files comments will be considered a party of record if the person so requests. No petition for leave to intervene need be filed.

Consistent with 49 CFR 1180.4(d)(1)(iii), written comments must contain:

(a) The docket number and title of the proceeding;

(b) The name, address, and telephone number of the commenting party and its representative upon whom service shall be made;

(c) The commenting party's position, i.e., whether it supports or opposes the proposed transaction;

(d) A statement whether the commenting party intends to participate formally in the proceeding, or merely to comment on the proposal;

(e) If desired, a request for an oral hearing with reasons supporting this request; the request must indicate the disputed material facts that can be resolved only at a hearing; and

(f) A list of all information sought to be discovered from applicant carriers.

Because we have determined that this proposal is a minor transaction, no responsive applications will be permitted. The time limits for processing this application are set forth at 49 U.S.C. 11325(d), but, as noted above, we have provisionally adopted an expedited schedule.

Discovery may begin immediately. We encourage the parties to resolve all discovery matters expeditiously and amicably.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The application is accepted for consideration under 49 U.S.C. 11323–25 as a minor transaction under 49 CFR 1180.2(c).

2. The parties will comply with all provisions stated above.

3. This decision is effective on February 13, 1997.

Decided: February 7, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–3652 Filed 2–12–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Financial Management Service

Privacy Act of 1974, as Amended; System of Records

AGENCY: Financial Management Service, Treasury.

ACTION: Notice of alteration of Privacy Act System of Records.

SUMMARY: The Department of the Treasury, Financial Management Service (FMS), gives notice of a proposed alteration to the system of records entitled ''Payment Issue Records for Regular Recurring Benefit Payments—Treasury/FMS .002,'' which is subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a). The system notice was last published in its entirety in the Federal Register Vol. 60, page 56770 on November 9, 1995.

DATES: Comments must be received, no later than March 17, 1997. The proposed alteration of the system of records will be effective March 25, 1997, unless FMS receives comments which would result in a contrary determination.

ADDRESS: Comments must be submitted to the Debt Management Services Staff, Financial Management Service, 401 14th Street, SW, Room 151, Washington, DC 20227. Comments received will be available for inspection at the same address between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gerry Isenberg, Debt Management Services, (202) 874–6660.

SUPPLEMENTARY INFORMATION: This alteration of system of records Treasury/FMS .002 is being made for two reasons. First, the system was last published in its entirety in the Federal Register Vol. 60, page 56770 on November 9, 1995, and that publication erroneously omitted an amendment to the system published in the Federal Register Vol. 60, page 45212 on August 30, 1995. This alteration will restate the changes made pursuant to the amendment published on August 30, 1995.

The August 30, 1995 amendment added two routine uses which facilitate the collection of delinquent Federal debts and more effectively apply certain debt collection tools established under Federal law, specifically tax refund offset, administrative offset, and Federal employee salary offset. These two new routine uses are republished here as numbers (11) and (13). As noted in the August 30, 1995 amendment, since FMS has closed the Washington, DC Financial Center, the system of records was altered to reflect this change. This change to ''System Location'' is also restated here.

Secondly, the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104–134, enacted April 26, 1996, provides the Department of the Treasury (Treasury) with specific legislative authority and responsibility to collect and/or manage the collection of claims owed to the Federal Government. The DCIA authorizes Treasury to collect claims, or facilitate the collection of claims, owed to States, Territories and Commonwealths of the United States, and the District of Columbia by offsetting Federal payments. Executive Order 13019, signed by the President on September 28, 1996, directs Treasury to promptly take steps to facilitate offset of Federal payments to collect delinquent child support debts being enforced by States. FMS is the Treasury bureau responsible for the implementation of the DCIA and the Executive Order. Accordingly, FMS is adding routine use (12) to comply with the provisions of the DCIA and the Executive Order.

For the reasons set forth in the preamble, FMS proposes to alter system of records Treasury/FMS .002, ''Payment Issue Records for Regular Recurring Benefit Payments—Treasury/Financial Management Service,'' as follows:

Treasury/FMS .002

SYSTEM NAME:

Payment Issue Records for Regular Recurring Benefit Payments—Treasury/Financial Management Service.

SYSTEM LOCATION:

Description of the change: Replace current text with the following language:

The Financial Management Service, U.S. Department of the Treasury, Washington, DC 20227. Records maintained at Financial Centers in six regions: Austin, TX; Birmingham, AL; Chicago, IL; Kansas City, MO; Philadelphia, PA; and San Francisco, CA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Description of the changes: Remove ''and'' at end of routine use (9); remove the period (.) at the end of routine use (10); add a semicolon (;); and add routine uses (11), (12) and (13) to read as follows:

(11) Disclose information concerning delinquent debtors to Federal creditor agencies, their employees, or their agents for the purpose of facilitating or conducting Federal administrative offset, Federal tax refund offset, Federal salary offset, or for any other authorized debt collection purpose;

(12) Disclose information to any State, Territory or Commonwealth of the United States, or the District of Columbia to assist in the collection of State, Commonwealth, Territory or District of Columbia claims pursuant to a reciprocal agreement between FMS and the State, Commonwealth, Territory or the District of Columbia; and

(13) Disclose to the Defense Manpower Data Center and the United States Postal Service and other Federal agencies through authorized computer matching programs for the purpose of identifying and locating individuals who are delinquent in their repayment of debts owed to the Department or other Federal agencies in order to collect those debts through salary offset and administrative offset, or by the use of other debt collection tools.

* * * * *

Dated: February 3, 1997.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

[FR Doc. 97–3564 Filed 2–12–97; 8:45 am]

Billing Code: 4810–35–F

Financial Crimes Enforcement Network

Privacy Act of 1974, as Amended, System of Records; Correction

AGENCY: Departmental Offices, Treasury.

ACTION: Correction.

SUMMARY: In notice document 97-605 beginning on page 1489 in the issue of Friday, January 10, 1997, make the following correction: On page 1490 in the second column, a portion of the sentence describing the third routine use was dropped. The sentence currently reads: ''The third proposed new in computer matching with requesting Federal and State agencies under agreements approved in accordance with the Privacy Act.'' This should be changed to read: '' The third proposed new routine use, which would be added as routine use number (5), will permit FinCEN to participate in computer matching with requesting Federal and State agencies under agreements approved in accordance with the Privacy Act.''

Date: February 3, 1997.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

[FR Doc. 97–3563 Filed 2–12–97; 8:45 am]

Billing Code: 4810–25–F

Internal Revenue Service

[CO–30–92]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–30–92 (TD 8560), Consolidated Returns—Stock Basis and Excess Loss Accounts, Earnings and Profits, Absorption of Deductions and Losses, Joining and Leaving Consolidated Groups, Worthless Stock Loss, Nonapplicability of Section 357(c). (§§ 1.1502–31, 1.1502–32, 1.1502–33, 1.1502–76).

DATES: Written comments should be received on or before April 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Consolidated Returns—Stock Basis and Excess Loss Accounts, Earnings and Profits, Absorption of Deductions and Losses, Joining and Leaving Consolidated Groups, Worthless Stock Loss, Nonapplicability of Section 357(c).

OMB Number: 1545–1344.

Regulation Project Number: CO–30–92.

Abstract: These regulations amend the consolidated return investment adjustment system, including the rules for earnings and profits and excess loss accounts. In addition, the regulations provide special rules for allocating consolidated income tax liability among members and modify the method for allocating income when a corporation enters or leaves a consolidated group.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 52,049.

Estimated Time Per Respondent: 22 minutes.

Estimated Total Annual Burden Hours: 18,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 7, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–3656 Filed 2–12–97; 8:45 am]

BILLING CODE 4830–01–U

Office of Thrift Supervision

[AC–1; OTS Nos. H–2158 and 02438]

Cumberland Mountain Bancshares, M.H.C., Middlesboro, Kentucky; Approval of Conversion Application

Notice is hereby given that on January 30, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Cumberland Mountain Bancshares, M.H.C., Middlesboro, Kentucky, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: February 10, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–3594 Filed 2–12–97; 8:45 am]

BILLING CODE 6720–01–M

[AC–2; OTS No. 4229]

Guaranty Savings and Homestead Association, Metairie, Louisiana; Approval of Conversion Application

Notice is hereby given that on February 7, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Guaranty

Savings and Homestead Association, Metairie, Louisiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039–2010.

Dated: February 10, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–3595 Filed 2–12–97; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 F.R. 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Picasso: The Early Years, 1892–1906'' (see List [1]), imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the National Gallery of Art in Washington, D.C. from on or about March 30, 1997 to on or about July 27, 1997, and at the Museum of Fine Arts, Boston Massachusetts, from on or about September 30, 1997 to January 4, 1998, is in the national interest. Public Notice of these determinations is ordered to be published in the Federal Register.

Dated: February 10, 1997.

Les Jin,

General Counsel.

[FR Doc. 97–3630 Filed 2–12–97; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Carol B. Epstein, Assistant General Counsel, at 202/619–6981, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, S.W., Washington, D.C. 20547–0001.

DEPARTMENT OF VETERANS AFFAIRS

Voluntary Service National Advisory Committee, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that the Executive Committee, Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee (NAC), will meet March 6–7, 1997, at the Disabled American Veterans National Service and Legislative Headquarters, 807 Maine Avenue, SW., Washington, DC. The meeting is scheduled from 8 a.m.–4 p.m. on March 6 and from 8 a.m.–12 noon on March 7.

The NAC consists of 55 national organizations and advises the Under Secretary for Health and other members of the Department of Veterans Affairs Central Office staff on how to coordinate and promote volunteer activities within VA facilities. The Executive Committee consists of nineteen representatives from the NAC member organizations and acts as the NAC governing body in the interim period between NAC Annual Meetings. Business topics for the Executive Committee meeting include: VAVS program progress since the 1996 NAC Annual Meeting; 1997 and 1998 NAC Annual Meeting planning; process recommendations pending NAC approval at the 1997 Annual Meeting; meeting planning for the next three years and subcommittee reports.

The Committee's agenda calls for these events on March 6: Opening Remarks, Introductions and Agenda Review, 8 a.m. until 8:15 a.m.; VAVS Program Update from the Director, Voluntary Service Office, 8:15 a.m. until 10:15 a.m.; Remarks from the NAC Chairperson, 10:30 a.m. until 11 a.m.; Parke Youth Scholarship Report from 11:30 a.m. until 12 noon; and the Committee will assess its 50th Anniversary Meeting and plan meetings for the next three years from 1 p.m. until 4 p.m. On March 7 the Committee's agenda includes: a report on the 1997 National Salute to Hospitalized Veterans from 8 a.m. until 8:45 a.m.; Committee action on its recommendations subcommittee report form 9 a.m. until 10:15 p.m.; NAC subcommittee reports from 10:30 a.m. until 11:15 a.m.; and a Good of the Order discussion from 11:30 a.m. until 12 noon.

The meeting is open to the public. Individuals interested in attending are encouraged to contact: Mr. Jim Mayer, Administrative Officer, Voluntary Service Office (162), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, 20420, (202) 273–8952.

Dated: February 5, 1997.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–3532 Filed 2–12–97; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Thursday
February 13, 1997

Part II

Department of Transportation

Maritime Administration

Voluntary Intermodal Sealift Agreement; Notice

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement

AGENCY: Maritime Administration, DOT.

ACTION: Notice of Voluntary Intermodal Sealift Agreement (VISA).

SUMMARY: The Maritime Administration (MARAD) announces establishment of the Voluntary Intermodal Sealift Agreement (VISA), pursuant to provision of the Defense Production Act of 1950, as amended. The purpose of the VISA is to make intermodal shipping services/systems, including ships, ships' space, intermodal equipment and related management services, available to the Department of Defense as required to support the emergency deployment and sustainment of U.S. military forces. This is to be accomplished through cooperation among the maritime industry, the Department of Transportation and the Department of Defense.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas M.P. Christensen, Director, Office of National Security Plans, Room P1–1303, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590, (202) 366–5900, Fax (202) 488–0941.

SUPPLEMENTARY INFORMATION: Section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158), as implemented by regulations of the Federal Emergency Management Agency (44 CFR Part 332), ''Voluntary agreements for preparedness programs and expansion of production capacity and supply'', authorizes the President, upon a finding that conditions exist which may pose a direct threat to the national defense or its preparedness programs, ''* * * to consult with representatives of industry, business, financing, agriculture, labor and other interests * * *'' in order to provide the making of such voluntary agreements. It further authorizes the President to delegate that authority to individuals who are appointed by and with the advice and consent of the Senate, upon the condition that such individuals obtain the prior approval of the Attorney General after the Attorney General's consultation with the Federal Trade Commission. Section 501 of Executive Order 12919, as amended, delegated this authority of the President to the Secretary of Transportation, among others. By DOT Order 1900.8, the Secretary delegated to the Maritime Administrator the authority under which the VISA is sponsored. Through advance arrangements in joint planning, it is intended that participants in VISA will provide capacity to support a significant portion of surge and sustainment requirements in the deployment of U.S. military forces.

A proposed draft text of the VISA was published in the Federal Register on August 17, 1994 (59 FR 42466) and a modified text of VISA was published in the Federal Register on October 19, 1995 (60 FR 54144). The text published herein will now be implemented.

Copies will be made available to the public upon request.

Text of the Voluntary Intermodal Sealift Agreement:

Voluntary Intermodal Sealift Agreement (VISA)

9 December 1996

Table of Contents

Abbreviations

''AMC''—Air Mobility Command
''CCA''—Carrier Coordination Agreements
''CDS''—Construction Differential Subsidy
''CFR''—Code of Federal Regulations
''CONOPS''—Concept of Operations
''DoD''—Department of Defense
''DOJ''—Department of Justice
''DOT''—Department of Transportation
''DPA''—Defense Production Act
''EUSC''—Effective United States Control
''FAR''—Federal Acquisition Regulations
''FEMA''—Federal Emergency Management Agency
''FTC''—Federal Trade Commission
''JCS''—Joint Chiefs of Staff
''JPAG''—Joint Planning Advisory Group
''MARAD''—Maritime Administration, DOT
''MSP''—Maritime Security Program
''MSC''—Military Sealift Command
''MTMC''—Military Transportation Management Command
''NCA''—National Command Authorities
''NDRF''—National Defense Reserve Fleet maintained by MARAD
''ODS''—Operating Differential Subsidy
''RRF''—Ready Reserve Force component of the NDRF
''SecDef''—Secretary of Defense
''SecTrans''—Secretary of Transportation
''USCINCTRANS''—Commander in Chief, United States Transportation Command
''USTRANSCOM''—United States Transportation Command (including its sealift transportation component, Military Sealift Command)
''VISA''—Voluntary Intermodal Sealift Agreement
''VSA''—Vessel Sharing Agreement

Definitions—For purposes of this agreement, the following definitions apply:

Administrator—Maritime Administrator.

Agreement—Agreement (proper noun) refers to the Voluntary Intermodal Sealift Agreement (VISA).

Attorney General—Attorney General of the United States.

Broker—A person who arranges for transportation of cargo for a fee.

Carrier Coordination Agreement (CCA)—An agreement between two or more Participants or between Participant and non-Participant carriers to coordinate their services in a Contingency, including agreements to: (i) charter vessels or portions of the cargo-carrying capacity of vessels; (ii) share cargo handling equipment, chassis, containers and ancillary transportation equipment; (iii) share wharves, warehouse, marshaling yards and other marine terminal facilities; and (iv) coordinate the movement of vessels.

Chairman—FTC—Chairman of the Federal Trade Commission (FTC).

Charter—Any agreement or commitment by which the possession or services of a vessel are secured for a period of time, or for one or more voyages, whether or not a demise of the vessel.

Commercial—Transportation service provided for profit by privately owned (not government owned) vessels to a private or government shipper. The type of service may be either common carrier or contract carriage.

Contingency—Includes, but is not limited to a ''contingency operation'' as defined at 10 App. U.S.C. 101(a)(13), and a JCS-directed, NCA-approved action undertaken with military forces in response to: (i) natural disasters; (ii) terrorists or subversive activities; or (iii) required military operations, whether or not there is a declaration of war or national emergency.

Contingency contracts—DoD contracts in which Participants implement advance commitments of capacity and services to be provided in the event of a Contingency.

Contract carrier—A for-hire carrier who does not hold out regular service to the general public, but instead contracts, for agreed compensation, with a particular shipper for the carriage of cargo in all or a particular part of a ship for a specified period of time or on a specified voyage or voyages.

Controlling interest—More than a 50-percent interest by stock ownership.

Director—FEMA—Director of Federal Emergency Management Agency (FEMA).

Effective U.S. Control (EUSC)—U.S. citizen-owned ships which are registered in certain open registry countries and which the United States can rely upon for defense in national security emergencies. The term has no legal or other formal significance. U.S. citizen-owned ships registered in Liberia, Panama, Honduras, the Bahamas and the Republic of the Marshall Islands are considered under effective U.S. control. EUSC registries are recognized by the Maritime Administration after consultation with the Department of Defense. (MARAD OPLAN 001A, 17 July 1990)

Enrollment Contract—The document, executed and signed by MSC, and the individual carrier enrolling that carrier into VISA Stage III.

Foreign flag vessel—A vessel registered or documented under the law of a country other than the United States of America.

Intermodal equipment—Containers (including specialized equipment), chassis, trailers, tractors, cranes and other materiel handling equipment, as well as other ancillary items.

Liner—Type of service offered on a definite, advertised schedule and giving relatively frequent sailings at regular intervals between specific ports or ranges.

Liner throughput capacity—The system/intermodal capacity available and committed, used or unused, depending on the system cycle time necessary to move the designated capacity through to destination. Liner throughput capacity shall be calculated as: static capacity (outbound from CONUS) X voyage frequency X.5.

Management services—Management expertise and experience, intermodal terminal management, information resources, and control and tracking systems.

Ocean Common carrier—An entity holding itself out to the general public to provide transportation by water of passengers or cargo for compensation; which assumes responsibility for transportation from port or point of receipt to port or point of destination; and which operates and utilizes a vessel operating on the high seas for all or part of that transportation. (As defined in 46 App. U.S.C. 1702, 801, and 842 regarding international, interstate, and intercoastal commerce respectively.)

Operator—An ocean common carrier or contract carrier that owns or controls or manages vessels by which ocean transportation is provided.

Organic sealift—Ships considered to be under government control or long-term charter—Fast Sealift Ships, Ready Reserve Force and commercial ships under long-term charter to DoD.

Participant—A signatory party to VISA, and otherwise as defined within Section VI of this document.

Person—Includes individuals and corporations, partnerships, and associations existing under or authorized by the laws of the United States or any state, territory, district, or possession thereof, or of a foreign country.

SecTrans—Secretary of Transportation.

Service contract—A contract between a shipper (or a shipper's association) and an ocean common carrier (or conference) in which the shipper makes a commitment to provide a certain minimum quantity of cargo or freight revenue over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule, as well as a defined service level (such as assured space, transit time, port rotation, or similar service features), as defined in the Shipping Act of 1984. The contract may also specify provisions in the event of nonperformance on the part of either party.

Standby period—The interval between the effective date of a Participant's acceptance into the Agreement and the activation of any stage, and the periods between deactivation of all stages and any later activation of any stage.

U.S. Flag Vessel—A vessel registered or documented under the laws of the United States of America.

USTRANSCOM—The United States Transportation Command and its component commands (AMC, MSC and MTMC).

Vessel Sharing Agreement (VSA) Capacity—Space chartered to a Participant for carriage of cargo, under its commercial contracts, service contracts or in common carriage, aboard vessels shared with another carrier or carriers pursuant to a commercial vessel sharing agreement under which the carriers may compete with each other for the carriage of cargo. In U.S. foreign trades the agreement is filed with the Federal Maritime Commission (FMC) in conformity with the Shipping Act of 1984 and implementing regulations.

Volunteers—Any vessel owner/operator who is an ocean carrier and who offers to make capacity, resources or systems available to support contingency requirements.

Preface

The Administrator, pursuant to the authority contained in Section 708 of the Defense Production Act of 1950, as amended (50 App. U.S.C. 2158)(Section 708)(DPA), in cooperation with the Department of Defense (DoD), has developed this Agreement [hereafter called the Voluntary Intermodal Sealift Agreement (VISA)] to provide DoD the commercial sealift and intermodal shipping services/systems necessary to meet national defense Contingency requirements.

USTRANSCOM procures commercial shipping capacity to meet requirements for ships and intermodal shipping services/systems through arrangements with common carriers, with contract carriers and by charter. DoD (through USTRANSCOM) and Department of Transportation (DOT) (through MARAD) maintain and operate a fleet of ships owned by or under charter to the Federal Government to meet the logistic needs of the military services which cannot be met by existing commercial service. Ships of the Ready Reserve Force (RRF) are selectively activated for peacetime military tests and exercises, and to satisfy military operational requirements which cannot be met by commercial shipping in time of war, national emergency, or military Contingency. Foreign-flag shipping is used in accordance with applicable laws, regulations and policies.

The objective of VISA is to provide DoD a coordinated, seamless transition from peacetime to wartime for the acquisition of commercial sealift and intermodal capability to augment DoD's organic sealift capabilities. This Agreement establishes the terms, conditions and general procedures by which persons or parties may become VISA Participants. Through advance joint planning among USTRANSCOM, MARAD and the Participants, Participants may provide predetermined capacity in designated stages to support DoD Contingency requirements.

VISA is designed to create close working relationships among MARAD, USTRANSCOM and Participants through which Contingency needs and the needs of the civil economy can be met by cooperative action. During Contingencies, Participants are afforded maximum flexibility to adjust commercial operations by Carrier Coordination Agreements (CCA), in accordance with applicable law.

Participants will be afforded the first opportunity to meet DoD peacetime and Contingency sealift requirements within applicable law and regulations, to the extent that operational requirements are met. In the event VISA Participants are unable to fully meet Contingency requirements, the shipping capacity made available under VISA may be supplemented by ships/capacity from non-Participants in accordance with applicable law and by ships requisitioned under Section 902 of the Merchant Marine Act, 1936 (as amended) (46 App. U.S.C. 1242). In addition, containers and chassis made available under VISA may be supplemented by services and equipment acquired by USTRANSCOM or accessed by the Administrator through the provisions of 46 CFR Part 340.

The Secretary of Defense (SecDef) has approved VISA as a sealift readiness

program for the purpose of Section 909 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1248).

Voluntary Intermodal Sealift Agreement

I. Purpose

A. The Administrator has made a determination, in accordance with Section 708(c)(1) of the Defense Production Act (DPA) of 1950, that conditions exist which may pose a direct threat to the national defense of the United States or its preparedness programs and, under the provisions of Section 708, has certified to the Attorney General that a standby agreement for utilization of intermodal shipping services/systems is necessary for the national defense. The Attorney General, in consultation with the Chairman of the Federal Trade Commission, has issued a finding that dry cargo shipping capacity to meet national defense requirements cannot be provided by the industry through a voluntary agreement having less anticompetitive effects or without a voluntary agreement.

B. The purpose of VISA is to provide a responsive transition from peace to Contingency operations through pre-coordinated agreements for sealift capacity to support DoD Contingency requirements. VISA establishes procedures for the commitment of intermodal shipping services/systems to satisfy such requirements. VISA will change from standby to active status upon activation by appropriate authority of any of the Stages, as described in Section V.

C. It is intended that VISA promote and facilitate DoD's use of existing commercial transportation resources and integrated intermodal transportation systems, in a manner which minimizes disruption to commercial operations, whenever possible.

D. Participants' capacity which may be committed pursuant to this Agreement may include all intermodal shipping services/systems and all ship types, including container, partial container, container/bulk, container/roll-on/roll-off, roll-on/roll-off (of all varieties), breakbulk ships, tug and barge combinations, and barge carrier (LASH, SeaBee).

II. Authorities

A. MARAD

1. Sections 101 and 708 of the DPA, as amended (50 App. U.S.C. 2158); Executive Order 12919, 59 FR 29525, June 7, 1994; Executive Order 12148, 3 CFR 1979 Comp., p. 412, as amended; 44 CFR Part 332; DOT Order 1900.8; 46 CFR Part 340.

2. Section 501 of Executive Order 12919, as amended, delegated the authority of the President under Section 708 to SecTrans, among others. By DOT Order 1900.8, SecTrans delegated to the Administrator the authority under which VISA is sponsored.

B. USTRANSCOM

1. Section 113 and Chapter 6 of Title 10 of the United States Code.

2. DoD Directive 5158.4 designating USCINCTRANS to provide air, land, and sea transportation for the DoD.

III. General

A. Concept

1. VISA provides for the staged, time-phased availability of Participants' shipping services/systems to meet NCA-directed DoD Contingency requirements in the most demanding defense oriented sealift emergencies and for less demanding defense oriented situations through prenegotiated Contingency contracts between the government and Participants (see Figure 1). Such arrangements will be jointly planned with MARAD, USTRANSCOM, and Participants in peacetime to allow effective, and efficient and best valued use of commercial sealift capacity, provide DoD assured Contingency access, and minimize commercial disruption, whenever possible.

a. Stages I and II provide for prenegotiated contracts between the DoD and Participants to provide sealift capacity against all projected DoD Contingency requirements. These agreements will be executed in accordance with approved DoD contracting methodologies.

b. Stage III will provide for additional capacity to the DoD when Stages I and II commitments or volunteered capacity are insufficient to meet Contingency requirements, and adequate shipping services from non-Participants are not available through established DoD contracting practices or U.S. Government treaty agreements.

2. Activation will be in accordance with procedures outlined in Section V of this Agreement.

3. Following is the prioritized order for utilization of commercial sealift capacity to meet DoD peacetime and Contingency requirements:

a. U.S. Flag vessel capacity operated by a Participant and U.S. Flag Vessel Sharing Agreement (VSA) capacity of a Participant.

b. U.S. Flag vessel capacity operated by a non-Participant.

c. Combination U.S./foreign flag vessel capacity operated by a Participant and combination U.S./foreign flag VSA capacity of a Participant.

d. Combination U.S./foreign flag vessel capacity operated by a non-Participant.

e. U.S. owned or operated foreign flag vessel capacity and VSA capacity of a Participant.

f. U.S. owned or operated foreign flag vessel capacity and VSA capacity of a non-Participant.

g. Foreign-owned or operated foreign flag vessel capacity of a non-Participant.

4. Under Section VI.F. of this Agreement, Participants may implement CCAs to fulfill their contractual commitments to meet VISA requirements.

B. Responsibilities

1. The SecDef, through USTRANSCOM, shall:

a. Define time-phased requirements for Contingency sealift capacity and resources required in Stages I, II and III to augment DoD sealift resources.

b. Keep MARAD and Participants apprised of Contingency sealift capacity required and resources committed to Stages I and II.

c. Obtain Contingency sealift capacity through the implementation of specific prenegotiated DoD Contingency contracts with Participants.

d. Notify the Administrator upon activation of any stage of VISA.

e. Co-chair (with MARAD) the Joint Planning Advisory Group (JPAG).

f. Establish procedures, in accordance with applicable law and regulation, providing Participants with necessary determinations for use of foreign flag vessels to replace an equivalent U.S. Flag capacity to transport a Participant's normal peacetime DoD cargo, when Participant's U.S. Flag assets are removed from regular service to meet VISA Contingency requirements.

g. Provide a reasonable time to permit an orderly return of a Participant's vessel(s) to its regular schedule and termination of its foreign flag capacity arrangements as determined through coordination between DoD and the Participants.

h. Review and endorse Participants' requests to MARAD for use of foreign flag replacement capacity for non-DoD government cargo, when U.S. Flag capacity is required to meet Contingency requirements.

2. The SecTrans, through MARAD, shall:

a. Review the amount of sealift resources committed in DoD contracts to Stages I and II and notify USTRANSCOM if a particular level of VISA commitment will have serious adverse impact on the commercial

sealift industry's ability to provide essential services. MARAD's analysis shall be based on the consideration that all VISA Stage I and II capacity committed will be activated. This notification will occur on an annual basis upon USCINCTRANS' acceptance of VISA commitments from the Participants. If so advised by MARAD, USTRANSCOM will adjust the size of the stages or provide MARAD with justification for maintaining the size of those stages. USTRANSCOM and MARAD will coordinate to ensure that the amount of sealift assets committed to Stages I and II will not have an adverse, national economic impact.

b. Coordinate with DOJ for the expedited approval of CCAs.

c. Upon request by USCINCTRANS and approval by SecDef to activate Stage III, allocate sealift capacity and intermodal assets to meet DoD Contingency requirements. DoD shall have priority consideration in any allocation situation.

d. Establish procedures, pursuant to Section 653(d) of the Maritime Security Act (MSA), for determinations regarding the equivalency and duration of the use of foreign flag vessels to replace U.S. Flag vessel capacity to transport the cargo of a Participant which has entered into an operating agreement under Section 652 of the MSA and whose U.S. Flag vessel capacity has been removed from regular service to meet VISA contingency requirements. Such foreign flag vessels shall be eligible to transport cargo subject to the Cargo Preference Act of 1904 (10 U.S.C. 2631), P.R. 17 (46 App. U.S.C. 1241–1), and P.L. 664 (46 App. U.S.C. 1241(b)). However, any procedures regarding the use of such foreign flag vessels to transport cargo subject to the Cargo Preference Act of 1904 must have the concurrence of USTRANSCOM before it becomes effective.

e. Co-chair (with USTRANSCOM) the JPAG.

f. Seek necessary Jones Act waivers as required. To the extent feasible, participants with Jones Act vessels or vessel capacity will use CCAs or other arrangements to protect their ability to maintain services for their commercial customers and to fulfill their commercial peacetime commitments with U.S. Flag vessels. In situations where the activation of this Agreement deprives a Participant of all or a portion of its Jones Act vessels or vessel capacity and, at the same time, creates a general shortage of Jones Act vessel(s) or vessel capacity on the market, the Administrator may request that the Secretary of the Treasury grant a temporary waiver of the provisions of the Jones Act to permit a Participant to charter or otherwise utilize non-Jones Act vessel(s) or vessel capacity, with priority consideration recommended for U.S. crewed vessel(s) or vessel capacity. The vessel(s) or vessel capacity for which such waivers are requested will be approximately equal to the Jones Act vessel(s) or vessel capacity chartered or under contract to the DoD, and any waiver that may be granted will be effective for the period that the Jones Act vessel(s) or vessel capacity is on charter or under contract to the DoD plus a reasonable time for termination of the replacement charters as determined by the Administrator.

C. Termination of Charters, Leases and Other Contractual Arrangements

1. USTRANSCOM will notify the Administrator as soon as possible of the prospective termination of charters, leases, management service contracts or other contractual arrangements made by the DoD under this Agreement.

2. In the event of general requisitioning of ships under 46 App. U.S.C. 1242, the Administrator shall consider commitments made with the DoD under this Agreement.

D. Modification/Amendment of This Agreement

1. The Attorney General may modify this Agreement, in writing, after consultation with the Chairman-FTC, SecTrans, through his representative MARAD, and SecDef, through his representative USCINCTRANS. Although Participants may withdraw from this Agreement pursuant to Section VI.D, they remain subject to VISA as amended or modified until such withdrawal.

2. The Administrator, USCINCTRANS and Participants may modify this Agreement at any time by mutual agreement, but only in writing with the approval of the Attorney General and the Chairman-FTC.

3. Participants may propose amendments to this Agreement at any time.

E. Administrative Expenses—Administrative and Out-of-pocket Expenses Incurred by a Participant Shall Be Borne Solely by the Participant

F. Record Keeping

1. MARAD has primary responsibility for maintaining carrier VISA application records in connection with this Agreement. Records will be maintained in accordance with MARAD Regulations. Once a carrier is selected as a VISA Participant, a copy of the VISA application form will be forwarded to USTRANSCOM.

2. In accordance with 44 CFR 332.2(c), MARAD is responsible for the making and record maintenance of a full and verbatim transcript of each JPAG meeting. MARAD shall send this transcript, and any voluntary agreement resulting from the meeting, to the Attorney General, the Chairman-FTC, the Director-FEMA, any other party or repository required by law and to Participants upon their request.

3. USTRANSCOM shall be the official custodian of records related to the contracts to be used under this Agreement, to include specific information on enrollment of a Participant's capacity in VISA.

4. In accordance with 44 CFR 332.3(d), a Participant shall maintain for five (5) years all minutes of meetings, transcripts, records, documents and other data, including any communications with other Participants or with any other member of the industry or their representatives, related to the administration, including planning related to and implementation of Stage activations of this Agreement. Each Participant agrees to make such records available to the Administrator, USCINCTRANS, the Attorney General, and the Chairman-FTC for inspection and copying at reasonable times and upon reasonable notice. Any record maintained by MARAD or USTRANSCOM pursuant to paragraphs 1, 2, or 3 of this subsection shall be available for public inspection and copying unless exempted on the grounds specified in 5 U.S.C 552(b) or identified as privileged and confidential information in accordance with Section 708(e).

G. MARAD Reporting Requirements—MARAD Shall Report to the Director-FEMA, as Required, on the Status and Use of This Agreement

IV. Joint Planning Advisory Group

A. The JPAG provides USTRANSCOM, MARAD and VISA Participants a planning forum to:

1. Analyze DoD Contingency sealift/intermodal service and resource requirements.

2. Identify commercial sealift capacity that may be used to meet DoD requirements, related to Contingencies and, as requested by USTRANSCOM, exercises and special movements.

3. Develop and recommend Concepts of Operations (CONOPS) to meet DoD-approved Contingency requirements and, as requested by USTRANSCOM, exercises and special movements.

B. The JPAG will be co-chaired by MARAD and USTRANSCOM, and will

convene as jointly determined by the co-chairs.

C. The JPAG will consist of designated representatives from MARAD, USTRANSCOM, each Participant, and maritime labor. Other attendees may be invited at the discretion of the co-chairs as necessary to meet JPAG requirements. Representatives will provide technical advice and support to ensure maximum coordination, efficiency and effectiveness in the use of Participants' resources. All Participants will be invited to all open JPAG meetings. For selected JPAG meetings, attendance may be limited to designated Participants to meet specific operational requirements.

1. The co-chairs may establish working groups within JPAG. Participants may be assigned to working groups as necessary to develop specific CONOPS.

2. Each working group will be co-chaired by representatives designated by MARAD and USTRANSCOM.

D. The JPAG will not be used for contract negotiations and/or contract discussions between carriers and the DoD; such negotiations and/or discussions will be in accordance with applicable DoD contracting policies and procedures.

E. The JPAG co-chairs shall:

1. Notify the Attorney General, the Chairman-FTC, Participants and the maritime labor representative of the time, place and nature of each JPAG meeting.

2. Provide for publication in the Federal Register of a notice of the time, place and nature of each JPAG meeting. If the meeting is open, a Federal Register notice will be published reasonably in advance of the meeting. If a meeting is closed, a Federal Register notice will be published within ten (10) days after the meeting and will include the reasons for closing the meeting.

3. Establish the agenda for each JPAG meeting and be responsible for adherence to the agenda.

4. Provide for a full and complete transcript or other record of each meeting and provide one copy each of transcript or other record to the Attorney General, the Chairman-FTC, and to Participants, upon request.

F. Security Measures—The co-chairs will develop and coordinate appropriate security measures so that Contingency planning information can be shared with Participants to enable them to plan their commitments

V. Activation of VISA Contingency Provisions

A. General

VISA may be activated at the request of USCINCTRANS, with approval of SecDef, as needed to support Contingency operations. Activating voluntary commitments of capacity to support such operations will be in accordance with prenegotiated Contingency contracts between DoD and Participants.

B. Notification of Activation

1. USCINCTRANS will notify the Administrator of the activation of Stages I, II, and III.

2. The Administrator shall notify the Attorney General and the Chairman-FTC when it has been determined by DoD that activation of any Stage of VISA is necessary to meet DoD Contingency requirements.

C. Voluntary Capacity

1. Throughout the activation of any Stages of this Agreement, DoD may utilize voluntary commitment of sealift capacity or systems.

2. Requests for volunteer capacity will be extended simultaneously to both Participants and other carriers. First priority for utilization will be given to Participants who have signed Stage I and/or II contracts and are capable of meeting the operational requirements. Participants providing voluntary capacity may request USTRANSCOM to activate their prenegotiated Contingency contracts; to the maximum extent possible, USTRANSCOM, where appropriate, shall support such requests. Volunteered capacity will be credited against Participants' staged commitments, in the event such stages are subsequently activated.

3. In the event Participants are unable to fully meet Contingency requirements, or do not voluntarily offer to provide the required capacity, the shipping capacity made available under VISA may be supplemented by ships/capacity from non-Participants.

4. When voluntary capacity does not meet DoD Contingency requirements, DoD will activate the VISA stages as necessary.

D. Stage I

1. Stage I will be activated in whole or in part by USCINCTRANS, with approval of SecDef, when voluntary capacity commitments are insufficient to meet DoD Contingency requirements. USCINCTRANS will notify the Administrator upon activation.

2. USTRANSCOM will implement Stage I Contingency contracts as needed to meet operational requirements.

E. Stage II

1. Stage II will be activated, in whole or in part, when Contingency requirements exceed the capability of Stage I and/or voluntarily committed resources.

2. Stage II will be activated by USCINCTRANS, with approval of SecDef, following the same procedures discussed in paragraph D above.

F. Stage III

1. Stage III will be activated, in whole or in part, when Contingency requirements exceed the capability of Stages I and II, and other shipping services are not available. This stage involves DoD use of capacity and vessels operated by Participants which will be furnished to DoD when required in accordance with this Agreement. The capacity and vessels are allocated by MARAD on behalf of SecTrans to USCINCTRANS.

2. Stage III will be activated by USCINCTRANS upon approval by SecDef. Upon activation, DoD SecDef will request SecTrans to allocate sealift capacity based on DoD requirements, in accordance with Title 1 of DPA, to meet the Contingency requirement. All Participants' capacity committed to VISA is subject to use during Stage III.

3. Upon allocation of sealift assets by SecTrans, through its designated representative MARAD, USTRANSCOM will negotiate and execute Contingency contracts with Participants, using pre-approved rate methodologies as established jointly by SecTrans and SecDef in fulfillment of Section 653 of the Maritime Security Act of 1996. Until execution of such contract, the Participant agrees that the assets remain subject to the provisions of Section 902 of the Merchant Marine Act of 1936, Title 46 App. U.S.C. 1242.

4. Simultaneously with activation of Stage III, the DoD Sealift Readiness Program (SRP) will be activated for those carriers still under obligation to that program.

G. Partial Activation

As used in this Section V, activation ''in part'' of any Stage under this Agreement shall mean one of the following:

1. Activation of only a portion of the committed capacity of some, but not all, of the Participants in any Stage that is activated; or

2. Activation of the entire committed capacity of some, but not all, of the

Participants in any Stage that is activated; or

3. Activation of only a portion of the entire committed capacity of all of the Participants in any Stage that is activated.

VI. Terms and Conditions

A. Participation

1. Any U.S. Flag vessel operator organized under the laws of a State of the United States, or the District of Columbia, may become a ''Participant'' in this Agreement by submitting an executed copy of the form referenced in Section VII, and by entering into a VISA Enrollment Contract with DoD which establishes a legal obligation to perform and which specifies payment or payment methodology for all services rendered.

2. The term ''Participant'' includes the entity described in VI.A.1 above, and all United States subsidiaries and affiliates of the entity which own, operate, charter or lease ships and intermodal equipment in the regular course of their business and in which the entity holds a controlling interest.

3. Upon request of the entity executing the form referenced in Section VII, the term ''Participant'' may include the controlled non-domestic subsidiaries and affiliates of such entity signing this Agreement, provided that the Administrator, in coordination with USCINCTRANS, grants specific approval for their inclusion.

4. Any entity receiving payments under the Maritime Security Program (MSP), pursuant to the Maritime Security Act of 1996 (MSA) (P.L. 104–239), shall become a ''Participant'' with respect to all vessels enrolled in MSP at all times until the date the MSP operating agreement would have terminated according to its original terms. The MSP operator shall be enrolled in VISA as a Stage III Participant, at a minimum. Such participation will satisfy the requirement for an MSP participant to be enrolled in an emergency preparedness program approved by SecDef as provided in Section 653 of the MSA.

5. A Participant shall be subject only to the provisions of this Agreement and not to the provisions of the SRP.

6. MARAD shall publish periodically in the FEDERAL REGISTER a list of Participants.

B. Agreement of Participant

1. Each Participant agrees to provide commercial sealift and/or intermodal shipping services/systems in accordance with DoD Contingency contracts. USTRANSCOM will review and approve each Participant's commitment to ensure it meets DoD Contingency requirements. A Participant's capacity commitment to Stages I and II will be one of the considerations in determining the level of DoD peacetime contracts awarded with the exception of Jones Act capacity (as discussed in paragraph 4 below).

2. DoD may also enter into Contingency contracts, not linked to peacetime contract commitments, with Participants, as required to meet Stage I and II requirements.

3. Commitment of Participants' resources to VISA is as follows:

a. Stage III: A carrier desiring to participate in DoD peacetime contracts/traffic must commit no less than 50% of its total U.S. Flag capacity into Stage III. Carriers receiving DOT payments under the MSP, or carriers subject to Section 909 of Merchant Marine Act of 1936, as amended, that are not enrolled in the SRP will have vessels receiving such assistance enrolled in Stage III. Participants' capacity under charter to DoD will be considered ''organic'' to DoD, and does not count towards the Participant's Contingency commitment during the period of the charter. Participants utilized under Stage III activation will be compensated based upon a DoD pre-approved rate methodology.

b. Stages I and II: DoD will annually develop and publish minimum commitment requirements for Stages I and II. Normally, the awarding of a long-term (i.e., one year or longer) DoD contract, exclusive of charters, will include the annual predesignated minimum commitment to Stages I and/or II. Participants desiring to bid on DoD peacetime contracts will be required to provide commitment levels to meet DoD-established Stage I and/or II minimums on an annual basis. Participants may gain additional consideration for peacetime contract cargo allocation awards by committing capacity to Stages I and II beyond the specified minimums. If the Participant is awarded a contract reflecting such a commitment, that commitment shall become the actual amount of a Participant's U.S. Flag capacity commitment to Stages I and II. A Participant's Stage III U.S. Flag capacity commitment shall represent its total minimum VISA commitment. That Participant's Stage I and II capacity commitments as well as any volunteer capacity contribution by Participant are portions of Participant's total VISA commitment. Participants activated during Stages I and II will be compensated in accordance with prenegotiated Contingency contracts.

4. Participants exclusively operating vessels engaged in domestic trades will be required to commit 50% of that capacity to Stage III. Such Participants will not be required to commit capacity to Stages I and II as a consideration of domestic peacetime traffic and/or contract award. However, such Participants may voluntarily agree to commit capacity to Stages I and/or II.

5. The Participant owning, operating, or controlling an activated ship or ship capacity will provide intermodal equipment and management services needed to utilize the ship and equipment at not less than the Participant's normal efficiency, in accordance with the prenegotiated Contingency contracts implementing this Agreement.

C. Effective Date and Duration of Participation

1. Participation in this Agreement is effective upon execution by MARAD of the submitted form referenced in Section VII, and approval by USTRANSCOM by execution of an Enrollment Contract, for Stage III, at a minimum.

2. VISA participation remains in effect until the Participant terminates the Agreement in accordance with paragraph D below, or termination of the Agreement in accordance with 44 CFR § 332.4. Notwithstanding termination of VISA or participation in VISA, obligations pursuant to executed DoD peacetime contracts shall remain in effect for the term of such contracts and are subject to all terms and conditions thereof.

D. Participant Termination of VISA

1. Except as provided in paragraph 2 below, a Participant may terminate its participation in VISA upon written notice to the Administrator. Such termination shall become effective 30 days after written notice is received, unless obligations incurred under VISA by virtue of activation of any Contingency contract cannot be fulfilled prior to the termination date, in which case the Participant shall be required to complete the performance of such obligations. Voluntary termination by a carrier of its VISA participation shall not act to terminate or otherwise mitigate any separate contractual commitment entered into with DoD.

2. A Participant having an MSP operating agreement with SecTrans shall not withdraw from this Agreement at any time during the original term of the MSP operating agreement.

3. A Participant's withdrawal, or termination of this Agreement, will not deprive a Participant of an antitrust defense otherwise available to it in accordance with DPA Section 708 for the fulfillment of obligations incurred prior to withdrawal or termination.

4. A Participant otherwise subject to the DoD SRP that voluntarily withdraws from this Agreement will become subject again to the DoD SRP.

E. Rules and Regulations

Each Participant acknowledges and agrees to abide by all provisions of DPA Section 708, and regulations related thereto which are promulgated by the Secretary, the Attorney General, and the Chairman-FTC. Standards and procedures pertaining to voluntary agreements have been promulgated in 44 CFR Part 332. 46 CFR Part 340 establishes procedures for assigning the priority for use and the allocation of shipping services, containers and chassis. The JPAG will inform Participants of new and amended rules and regulations as they are issued in accordance with law and administrative due process. Although Participants may withdraw from VISA, they remain subject to all authorized rules and regulations while in Participant status.

F. Carrier Coordination Agreements (CCA)

1. When any Stage of VISA is activated or when DoD has requested volunteer capacity pursuant to Section V.B. of VISA, Participants may implement approved CCAs to meet the needs of the DoD and to minimize the disruption of their services to the civil economy.

2. A CCA for which the parties seek the benefit of Section 708(j) of the DPA shall be identified as such and shall be submitted to the Administrator for approval and certification in accordance with Section 708(f)(1)(A) of the DPA. Upon approval and certification, the Administrator shall transmit the Agreement to the Attorney General for a finding in accordance with Section 708(f)(1)(B) of the DPA. Parties to approved CCAs may avail themselves of the antitrust defenses set forth in Section 708(j) of the DPA. Nothing in VISA precludes Participants from engaging in lawful conduct (including carrier coordination activities) that lies outside the scope of an approved Carrier Coordination Agreement; but antitrust defenses will not be available pursuant to Section 708(j) of the DPA for such conduct.

3. Participants may seek approval for CCAs at any time.

G. Enrollment of Capacity (Ships and Equipment)

1. A list identifying the ships/capacity and intermodal equipment committed by a Participant to each Stage of VISA will be prepared by the Participant and submitted to USTRANSCOM within seven days after a carrier has become a Participant. USTRANSCOM will maintain a record of all such commitments. Participants will notify USTRANSCOM of any changes not later than seven days prior to the change.

2. USTRANSCOM will provide a copy of each Participant's VISA commitment data and all changes to MARAD.

3. Information which a Participant identifies as privileged or business confidential/proprietary data shall be withheld from public disclosure in accordance with Section 708(h)(3) and Section 705(e) of the DPA, 5 App. U.S.C. 552(b), and 44 CFR Part 332.

4. Enrolled ships are required to comply with 46 CFR Part 307, Establishment of Mandatory Position Reporting System for Vessels.

H. War Risk Insurance

1. Where commercial war risk insurance is not available on reasonable terms and conditions, DOT shall provide non-premium government war risk insurance, subject to the provisions of Section 1205 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1285(a)).

2. Pursuant to 46 CFR 308.1(c), the Administrator (or DOT) will find each ship enrolled or utilized under this agreement eligible for U.S. Government war risk insurance.

I. Antitrust Defense

1. Under the provisions of DPA Section 708, each carrier shall have available as a defense to any civil or criminal action brought under the antitrust laws (or any similar law of any State) with respect to any action taken to develop or carry out this Agreement, that such act was taken in the course of developing or carrying out this Agreement and that the Participant complied with the provisions of DPA Section 708 and any regulation thereunder, and acted in accordance with the terms of this Agreement.

2. This defense shall not be available to the Participant for any action occurring after termination of this Agreement. This defense shall not be available upon the modification of this Agreement with respect to any subsequent action that is beyond the scope of the modified text of this Agreement, except that no such modification shall be accomplished in a way that will deprive the Participant of antitrust defense for the fulfillment of obligations incurred.

3. This defense shall be available only if and to the extent that the Participant asserting it demonstrates that the action, which includes a discussion or agreement, was within the scope of this Agreement.

4. The person asserting the defense bears the burden of proof.

5. The defense shall not be available if the person against whom it is asserted shows that the action was taken for the purpose of violating the antitrust laws.

6. As appropriate, the Administrator, on behalf of SecTrans, and DoD will support agreements filed by Participants with the Federal Maritime Commission that are related to the standby or Contingency implementation of VISA.

J. Breach of Contract Defense

Under the provisions of DPA Section 708, in any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken by a Participant during an emergency (including action taken in imminent anticipation of an emergency) to carry out this Agreement. Such defense shall not release the party asserting it from any obligation under applicable law to mitigate damages to the greatest extent possible.

K. Vessel Sharing Agreements (VSA)

1. VISA allows Participants the use of a VSA to utilize non-Participant U.S. Flag or foreign-owned and operated foreign flag vessel capacity as a substitute for VISA Contingency capability provided:

a. The foreign flag capacity is utilized in accordance with cargo preference laws and regulations.

b. The use of a VSA, either currently in use or a new proposal, as a substitution to meet DoD Contingency requirements is agreed upon by USTRANSCOM and MARAD.

c. The Participant carrier demonstrates adequate control over the offered VSA capacity during the period of utilization.

d. Service requirements are satisfied.

e. Participant is responsible to DoD for the carriage or services contracted for. Though VSA capacity may be utilized to fulfill a Contingency commitment, a Participant's U.S. Flag VSA capacity in another Participant's vessel shall not act in a manner to increase a Participant's capacity commitment to VISA.

2. Participants will apprise MARAD and USTRANSCOM in advance of any

change in a VSA of which it is a member, if such changes reduce the availability of Participant capacity provided for in any approved and accepted Contingency Concept of Operations.

3. Participants will not act as a broker for DoD cargo unless requested by USTRANSCOM.

VII. Application and Agreement

The Administrator, in coordination with USCINCTRANS has adopted the form on page 31 (''Application to Participate in the Voluntary Intermodal Sealift Agreement'') on which intermodal ship operators may apply to become a Participant in this Agreement. The form incorporates, by reference, the terms of this Agreement.

United States of America, Department of Transportation, Maritime Administration

Application To Participate in the Voluntary Intermodal Sealift Agreement

The applicant identified below hereby applies to participate in the Maritime Administration's agreement entitled ''Voluntary Intermodal Sealift Agreement.'' The text of said Agreement is published in _____ Federal Register _____, _____, 19_____. This Agreement is authorized under Section 708 of the Defense Production Act of 1950, as amended (50 App. U.S.C. 2158). Regulations governing this Agreement appear at 44 CFR Part 332 and are reflected at 49 CFR Subtitle A.

The applicant, if selected, hereby acknowledges and agrees to the incorporation by reference into this Application and Agreement of the entire text of the Voluntary Intermodal Sealift Agreement published in _____ Federal Register _____, _____, 19_____, as though said text were physically recited herein.

The Applicant, as a Participant, agrees to comply with the provisions of Section 708 of the Defense Production Act of 1950, as amended, the regulations of 44 CFR Part 332 and as reflected at 49 CFR Subtitle A, and the terms of the Voluntary Intermodal Sealift Agreement. Further, the applicant, if selected as a Participant, hereby agrees to contractually commit to make specifically enrolled vessels or capacity, intermodal equipment and management of intermodal transportation systems available for use by the Department of Defense and to other Participants as discussed in this Agreement and the subsequent Department of Defense Voluntary Intermodal Sealift Agreement Enrollment Contract for the purpose of meeting national defense requirement.

Attest:

_____

(Corporate Secretary)

(CORPORATE SEAL)

Effective Date: _____

_____

(Secretary

(SEAL)

_____

(Applicant-Corporate Name)

_____

(Signature)

_____

(Position Title)

United States of America, Department of Transportation, Maritime Administration

By: _____

Maritime Administrator

BILLING CODE 4910–81–P

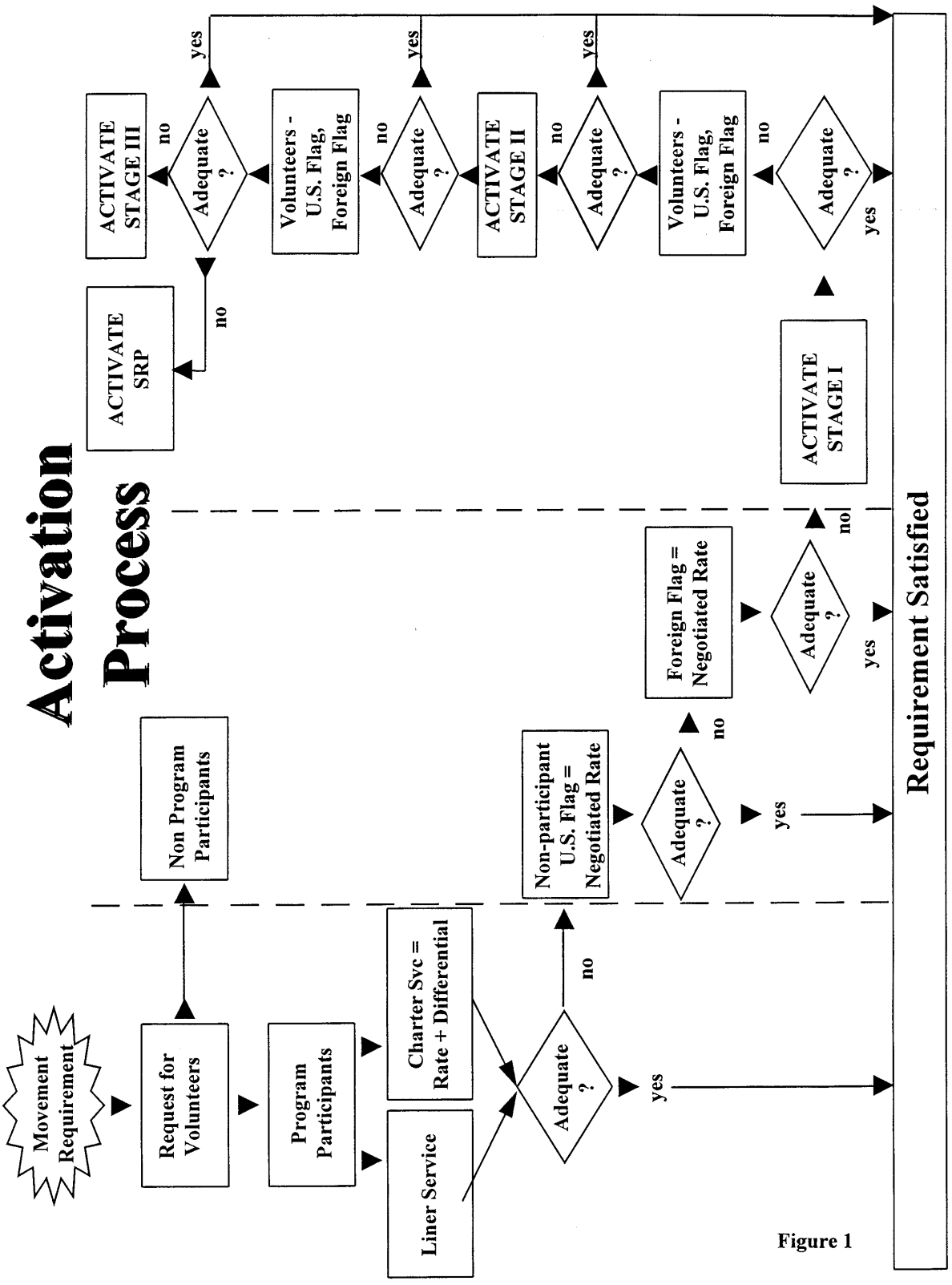

Figure 1

Dated: February 10, 1997.
By Order of the Maritime Administrator.
Joel C. Richard,
Secretary.
[FR Doc. 97–3666 Filed 2–10–97; 4:10 pm]
BILLING CODE 4910–81–C

Federal Register

Thursday
February 13, 1997

Part III

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Funding Availability for Evaluation of Youth Substance Use Prevention Program; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1114]

RIN 1121–ZA61

Notice of Funding Availability for Evaluation of Youth Substance Use Prevention Program

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of funding availability.

SUMMARY: To conduct a formative evaluation that documents the effectiveness of youth-led substance abuse prevention programs to be funded by the President's Crime Prevention Council (the Council) and administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The purpose of the evaluation is to provide a better understanding of the processes by which youth-led prevention programs are developed and implemented, and their effects on youth participants.

FOR FURTHER INFORMATIONCONTACT: For further information call Eric Peterson, Program Manager, Research and Program Development Division, 202–307–5929 or send an email inquiry to eric@ojp.usdoj.gov.

SUPPLEMENTARY INFORMATION:

Background:

The President's Crime Prevention Council ''Ounce of Prevention Program'' was established in 1994 through the Violent Crime Control and Law Enforcement Act, Title III, Subtitle A (Pub. L. 103–322, 42 U.S.C. 13741–44). The Ounce of Prevention Program supports the coordination and integration of programs, initiatives, and service delivery for summer and after-school education and recreation programs; mentoring, tutoring, and other programs involving participation by adult role models; programs assisting and promoting employability and job placement; and prevention and treatment programs to reduce substance abuse, child abuse, and adolescent pregnancy, including outreach programs for at-risk families.

To address the significant problems of drug and alcohol use among youth, the Council developed its Fiscal Year 1996 grant program to support community-based, youth-led and grassroots organizations that significantly and substantially involve youth in preventing and combating drug and alcohol use among youth. It is believed that traditional, adult-managed substance abuse prevention programs typically do not address youth-specific problems. The Council believes that at-risk youth will respond more favorably to substance abuse prevention programs if other young people from the same community play substantial and meaningful roles in the management and operation of such programs. The President's Crime Prevention Council and OJJDP will award up to 12 one-year grants to non-profit youth-led/youth-involved organizations to support activities designed to combat youth drug and alcohol use.

Organizations funded under this program will work to design, enhance, or expand substance use prevention services that target youth and that are provided by or substantially involve other young people between the ages of 12 and 21 in the design, implementation, and delivery of program services. The Youth Substance Use Prevention Program will accomplish the following objectives:

- Increase collaboration between community-based, youth-serving and youth-led groups and law enforcement, schools, houses of worship, and government in combating youth drug and alcohol use.
- Assist and empower youth to help solve problems that affect them.
- Promote personal growth and social responsibility among young people.

In support of the Council, OJJDP will fund an evaluation of the Youth Substance Use Program.

Goals: The goals of this evaluation are to build the local program grantees' capacity for designing, implementing, and interpreting evaluations; to determine whether youth-led delinquency and substance use prevention activities have more of an impact on youth than adult-led prevention; and to define the critical elements of implementing a successful youth-led prevention activity. The evaluation should address the following research questions:

1. What effects do these youth-led prevention activities and services have on youth participants who receive program services? How do they compare with the effects of adult-led prevention activities and services?

2. What are the key elements of organizing and implementing effective youth-led prevention activities and services?

Objectives: The objectives of this evaluation are:

1. To conduct an evaluability assessment of up to 12 local program grantees, including a cross-site evaluation, and select a sample of programs for the evaluation.

2. To provide assistance to local program grantees on refining program goals and objectives; articulating logical relationships between youth substance use problems, prevention activities and services; and tracking and measuring success.

3. To describe the key organizational components and processes involved in implementing youth-led prevention activities and services.

4. To document the prevention activities and services provided by the youth.

5. To compare the effects of youth-led prevention services on youth with those of adult-led services.

Program Strategy: Applicants must provide a clear discussion of the research questions for the evaluation. The evaluation grantee will be required to conduct an evaluability assessment of up to 12 local program grantees, recommending for participation in the national evaluation grantee programs from which lessons can be learned. As part of the assessment, the evaluation grantee will be responsible for working with the local grantee programs to develop program logic models and identify outcome measures and data collection methods, tailored to each grantee's program design, which will serve as a basis for the overall evaluation strategy. The evaluation grantee also will be responsible for developing data collection instruments, coordinating the data collection with the program grantees, gathering the data collected by the grantees, and conducting analyses that will answer the questions associated with the goals and objectives stated earlier. Applicants should describe how they will use existing self-evaluation materials, such as Prevention Plus III, to assist local program grantees in data collection. Applicants should provide a description of how they will make comparisons with adult-led prevention services.

OJJDP and the Council recognize that it will be difficult for applicants to propose a detailed evaluation design in the absence of more information about the specific approaches to be implemented by the local communities. For that reason, the evaluation grantee will be expected to develop a detailed evaluation plan during the first 60 days after the grant award, based on more detailed information about the local grantees' programs. It is intended that the evaluation of this program will be accomplished through a partnership effort among the grantees, OJJDP, the Council, and the evaluation grantee.

Products: The evaluation grantee is required to prepare four products:

1. A final evaluation design, including the results of the evaluability assessment, not later than 60 days following the award of the grant.

2. A draft outline of the structure for the final report not later than six months after the award of the grant.

3. A final evaluation report, not later than 30 days following the end of the project year, detailing the results of the study. The report must include a full discussion of the evaluation objectives, study findings, and recommendations for program implementation.

4. An executive summary of the final evaluation report suitable for widespread distribution.

Eligibility Requirements: OJJDP invites applications from public and private agencies, organizations, institutions, and individuals. Applicants must demonstrate technical knowledge of evaluation methods and tools; their practical knowledge of substance use prevention among juveniles; and their skills for assisting those who must develop and make decisions about program directions. Private, for-profit organizations must agree to waive any profit or fee. Joint applications from two or more eligible applicants are welcome, as long as one is designated primary applicant and any others co-applicant.

Selection Criteria: Applicants will be evaluated and ranked by a peer review panel according to the criteria outlined below.

Problem(s) To Be Addressed (20 Points)

Applicants must include a clear and concise statement of their understanding of youth substance use prevention, youth-led prevention programs, community-based prevention, and evaluation methods. They should also discuss the methodological problems associated with this type of evaluation and how the proposed effort overcomes these potential problems.

Project Design (35 Points)

Applicants must present a clear research design for the conduct of an evaluability assessment and a formative process and outcome evaluation that meet the goals and objectives in this solicitation. The research design should also include a workplan for the conduct of these tasks. The research design and workplan must be sound, feasible, and capable of achieving the objectives set forth in this solicitation. The applicant should describe as completely as possible the research products and how they will be disseminated.

Management and Organizational Capability (35 Points)

The application should include a discussion of how the grantee will coordinate and manage this evaluation to achieve the evaluation objectives. Applicants' management structure and staffing must be adequate and appropriate for the successful implementation of the project. Applicants must identify responsible individuals, their time commitment, and major tasks. Key staff should have significant experience with multi-site evaluation/research of community-based initiatives, youth substance use prevention, and/or juvenile or related criminal justice programs. They must demonstrate the ability to work effectively with practitioners in data collection and analysis issues and other requirements of the project. Staff resumes should be attached as part of the appendices. Applicants must demonstrate the organization's ability to conduct the project successfully. Organizational experience with evaluation of community-based prevention initiatives is recommended.

Budget (10 Points)

Applicants must provide a proposed budget that is complete, detailed, reasonable, and allowable, and cost effective in relation to the activities to be undertaken.

Format: The narrative must not exceed 25 pages in length (excluding forms, assurances, and appendices) and must be submitted on 8½- by 11-inch paper, double-spaced on one side of the paper in a standard 12 point font.

Award Period: This project will be funded for an 18 month budget and project period.

Award Amount: Up to $180,000 is available to support one evaluation grant.

Application Instructions and Contact: To apply for this grant, applicants must complete an Application Kit which includes detailed instructions, forms, checklists, worksheets, and application forms. To have the Application Kit or a copy of this Notice of Funding Availability (NOFA) faxed to you, call OJJDP's Juvenile Justice Clearinghouse at 1–800–638–8739, select option #2 for automated ordering services, then select option #2 again for OJJDP Clearinghouse documents, then select fax on demand, then select document #9023 for the Application Kit and/or document #9022 for the Evaluation NOFA.

To have the Application Kit or the Evaluation NOFA mailed to you, call 1–800–638–8736, select option #3 for publication ordering, then request publication #SL0001888 for the Application Kit and/or publication #SL000187 for the Evaluation NOFA.

An Application Kit or the Evaluation NOFA may be obtained electronically by accessing OJJDP's bulletin board at 301–738–8895 (set modem at 9600 Baud and 8–N–1) or by accessing OJJDP's world wide web site at http://www.ncjrs.org/ojjhome.html.

Application Submission and Deadline: All required forms and documentation must be submitted by the application deadline to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 1600 Research Boulevard, Mail Stop 2K, Rockville, MD 20850, 301–251–5535.

Note: In the lower left-hand corner of the envelope, you must clearly write ''Substance Use Prevention Program Evaluation.''

All applications must be received, not postmarked, by the submission deadline.

The deadline date for submission of an application is on or before 5:00 p.m., Eastern Standard Time, on April 25, 1997.

Applicants are responsible for ensuring that the original and five copies of the application package are received at the OJJDP address by that deadline date. No facsimiles are allowed.

Contact: For further information call Eric Peterson, Program Manager, Research and Program Development Division, 202–307–5929 or send an email inquiry to eric@ojp.usdoj.gov.

Dated: February 10, 1997.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

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